











**Government of Bengal**  
**Legislative Department**

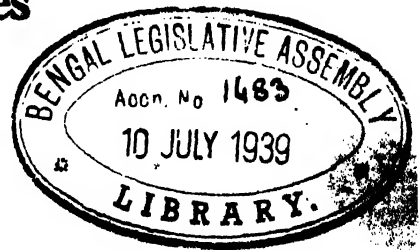
# **The Bengal Code**

**In Five Volumes**

**Fifth Edition**

**Volume IV**

**Bengal Acts, 1920 to 1930**



**Superintendent, Government Printing**  
**Bengal Government Press, Alipore, Bengal**  
**1939**

**Price—Indian, Rs. 3; English, 5s. 3d.**

**Published by the Superintendent, Government Printing  
Bengal Government Press, Alipore, Bengal**

**Agents in India.**

**Messrs. S. K. Lahiri & Co., Ltd., Printers and Booksellers, College Street,  
Calcutta.**

**Messrs. Thacker, Spink & Co., Calcutta.**

**Customers in the United Kingdom and the Continent of Europe  
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## PREFACE.

This, the fourth Volume of the fifth edition of the Bengal Code, contains such of the Bengal Acts of the years 1920 to 1930 as are now in force in the Province of Bengal or in any part of that Province. This Volume has been divided into two parts containing, respectively, Acts passed by the Bengal Legislature and the Act made by the Governor of Bengal under section 72E of the Government of India Act. The system followed in editing the Volume is described in the Preface to Volume 1 of this Code.

The Acts included in this volume are printed as modified up to the 31st December 1938; but the amendments and repeals effected by the Bengal Repealing and Amending Act, 1938 (Ben. Act. I of 1939) have also been taken into account in preparing the text as well as the Chronological Table.

E. B. H. BAKER,  
*Secretary to the Government of Bengal,  
Legislative Department.*

CALCUTTA :

*March 1939*



# CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME.

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<sup>1</sup> No number was given to this Act.



# **. The Bengal Code**

## **Volume IV**

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**(The Bengal Cruelty to Animals Act, 1920.)**

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# Bengal Act I of 1920

## (The Bengal Cruelty to Animals Act, 1920.)<sup>1</sup>

(25th February 1920.)

*An Act to consolidate and amend the law relating to the prevention of cruelty to animals in Bengal.*

WHEREAS it is expedient to consolidate and amend the law relating to the prevention of cruelty to animals in Bengal;

It is hereby enacted as follows:—

### *Preliminary.*

1. (1) This Act may be called the Bengal Cruelty to Animals Act, 1920. Short title, commencement and extent.

(2) It shall come into force on such date<sup>2</sup> as the <sup>3</sup>[Provincial Government] may, by notification, direct.

(3) Except as otherwise hereinafter provided, this Act shall extend only to Calcutta; but it may be extended by the <sup>3</sup>[Provincial Government], by notification, to any other town or place.

2. (1) The following enactments, namely:— Repeal.

Ben. Act I  
of 1869.

Ben. Act  
III of 1869.

Ben. Act  
III of 1900.

- (a) the Bengal Cruelty to Animals Act, 1869;
- (b) the Bengal Cruelty to Animals (Arrest) Act, 1869; and
- (c) the Bengal Cruelty to Animals Act, 1900

shall be deemed to be repealed—

- (i) in Calcutta, from the date of the commencement of this Act, and
- (ii) in any other town or place to which this Act may hereafter be extended under section 1, sub-section (3), from the date of such extension.

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1919, Pt. IV, p. 169; and for Proceedings in Council, see *ibid*, Pt. IVA, pp. 1131-1132, and p. 1329 and pp. 1413-1414, and see *Calcutta Gazette*, 1920, Part IVA, pp. 49-55.

<sup>2</sup>The Act came into force on the 1st October, 1926—*vide* Notification No. 4362Pl., dated the 24th September, 1926, published in the *Calcutta Gazette*, 1926, Pt. I, p. 1434.

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

# *The Bengal Cruelty to Animals Act, 1920.*

[Ben. Act I

## *(Preliminary.—Offences.—Secs. 3, 4.)*

(2) Such repeal shall not affect the validity of anything done or suffered, or of any obligation or liability which may have accrued, under any of the said Acts; and all penalties incurred and other things duly done under any of the said Acts shall, so far as they are consistent with this Act, be deemed to have been respectively incurred or done hereunder.

(3) All proceedings pending under any of the said Acts, in Calcutta or in any other town or place, at the date when this Act comes into operation therein, shall be deemed to have been commenced under this Act.

### **Definitions.**

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "animal" means any domestic or captured animal;

(2) "Calcutta" means the area defined in clause (11) of section 3 of the Calcutta Municipal Act, 1923;

Ben. Act  
III of 1923.

(3) "the Corporation" means the Corporation of Calcutta; and

(4) "notification" means a notification published in the <sup>2</sup>[*Official Gazette*].

### *Offences.*

4. If any person—

(a) overdrives, cruelly or unnecessarily beats, or otherwise ill-treats any animal, or

(b) binds, keeps or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished for every such offence with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

<sup>1</sup>Clause (2) was substituted for the original clause by s. 2 of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>2</sup>The word was substituted for the words "*Calcutta Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Penalty for  
cruelty to  
animals and for  
sale of animals  
killed with  
cruelty.

[1920.]

*(Offences.—Secs. 5-6B.)*

5. If any person overloads any animal he shall be **Penalty for overloading animals.** punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both, and

(1) if the owner of that animal, and

(2) if any person who, as a trader, carrier or contractor, or who, in virtue of his employment by a trader, carrier or contractor, is in possession of that animal or in control over the loading of it,

permits such overloading, he shall be punished with fine which may extend to one hundred rupees.

*Explanation.*—For the purposes of this section an owner or other person referred to in clauses (1) and (2) above shall be deemed to have permitted overloading if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom.

6. If any person performs upon any cow or other milch animal the operation called *phuka* he <sup>1</sup>[shall be deemed to have committed a cognizable offence and,] shall be punished with fine which may extend to <sup>2</sup>[five] hundred rupees, or with imprisonment for a term which may extend to <sup>3</sup>[two years], or with both, and the owner of the cow or other milch animal and any person in possession of or control over it shall be liable to the same punishment <sup>4</sup>[and the cow or the milch animal on which the operation of *phuka* was performed shall be forfeited to Government:] **Penalty for practising phuka.**

<sup>5</sup>Provided that in the case of a second or subsequent conviction of a person under this section, such person shall be punished both with fine which may extend to five hundred rupees and with imprisonment which may extend to two years.

<sup>6</sup>A. A portion of the fine if realized from the person convicted under section 6 may be given to the person whose information led to the detection of the crime against section 6. **Disposal of portion of fine.**

<sup>6</sup>B. It shall be lawful for the Corporation of Calcutta or the Commissioners of a Municipality in towns or places where this Act applies to refuse to grant or renew licenses for cattle-sheds in buildings with boundary walls or when granting or renewing such **Condition for granting licenses for cattle-sheds.**

<sup>1</sup> These words were inserted by s. 2 of the Bengal Cruelty to Animals (Amendment) Act, 1938 (Ben. Act I of 1938).

<sup>2</sup> This word was substituted for the word "two", *ibid.*

<sup>3</sup> These words were substituted for the words "six months", *ibid.*

<sup>4</sup> These words were added, *ibid.*

<sup>5</sup> This proviso was added, *ibid.*

<sup>6</sup> Sections 6A and 6B were inserted by s. 3, *ibid.*



## (Offences.—Secs. 7-10.)

licenses to insist upon the licensees to keep the cattle-sheds open on all sides to facilitate the detection of any offence against section 6.

**Penalty for killing animals with unnecessary cruelty.**

7. If any person kills any animal in an unnecessarily cruel manner he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both:

Provided that nothing in this section shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class, or for any *bona fide* scientific purpose or for the preparation of any medicinal drug.

**Penalty for being in possession of the skin of a goat killed with unnecessary cruelty.**

8. If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner so as to constitute an offence under section 7, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.

**Presumptions as to possession of the skin of a goat.**

9. (1) If any person is charged with the offence of killing a goat contrary to the provisions of section 7, and it is proved that such person had in his possession, after the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner.

(2) If any person is charged with an offence against section 8, and it is proved that such person had in his possession, at the time of the alleged offence, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.

**Penalty for employing animals unfit for labour.**

10. If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, he shall be punished with fine which may extend to one hundred rupees, and

(1) if the owner of that animal, and

(2) if any person who, as a trader, carrier or contractor, or who, in virtue of his employment by a trader, carrier or contractor, is in

[1920.]

*(Offences.—Weighbridges and Infirmarys.—  
Secs. 11-13.)*

possession of that animal or in control over the employment of it,  
permits such employment, he shall be liable to the same punishment.

*Explanation.*—For the purposes of this section an owner or other person referred to in clauses (1) and (2) above shall be deemed to have permitted such employment if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom.

**11.** If any person—

- (a) incites any animal to fight, or
- (b) baits any animal, or
- (c) aids or abets any one in such incitement or baiting,

Penalty for baiting animals, or inciting them to fight.

he shall be punished with fine which may extend to fifty rupees.

**12.** If any person wilfully allows any animal of which he is the owner or of which he is in charge to go at large in any public place while the animal is affected with contagious or infectious disease, or without reasonable excuse, allows any diseased or disabled animal of which he is the owner or of which he is in charge to go at large or die in any public place, he shall be punished with fine which may extend to one hundred rupees.

Penalty for allowing diseased animals to go at large or to die in public places.

**12A.** If any person employs a buffalo for draught purposes between such hours during such period as may be prescribed he shall be punished for every such offence with fine which may extend to fifty rupees.

Penalty for working buffaloes during prohibited period.

*Weighbridges and Infirmarys.*

**13.** (1) The <sup>2</sup>[Provincial Government] may appoint the places at which weighbridges shall be established for the detection of cases of overloading of animals, and may also declare, by notification, the limits of the areas for which such weighbridges are established.

Weighbridges.

(2) The <sup>2</sup>[Provincial Government] may erect weighbridges at the places so appointed, and may acquire, by purchase or otherwise, existing weighbridges erected by any person and maintain them for the purposes of sub-section (1).

<sup>1</sup>Section 12A was inserted by s. 3 of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>2</sup>See foot-note 3 on p. 3, *ante*.

*(Weighbridges and Infirmaries.—Secs. 14-18.)*

**Infirmaries.**

14. The '[Provincial Government]' may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act are believed to have been committed.

of  
Provincial  
Government to  
appoint  
Veterinary  
Inspectors and  
weighbridge-  
officers.

15. The '[Provincial Government]' may appoint such persons as they think fit,—

(a) to be Veterinary Inspectors for carrying into effect the provisions of this Act, and may declare the areas within which such officers shall exercise their powers under this Act and the areas of which they shall be in charge;

(b) to be weighbridge-officers, to have charge of any weighbridge or weighbridges established under section 13.

l, etc., to  
be taken to  
weighbridge in  
case of  
overloading.

16. Within the limits of any area for which a weighbridge has been established under section 13, any police-officer, or any other person duly authorized by the '[Provincial Government]' in this behalf, who has reason to believe that an offence against section 5 is being committed in respect of any animal, shall seize and take it, together with its load and the person in charge of the animal, to such weighbridge, and shall cause the load to be weighed on the weighbridge in the presence of such person.

Excess load to  
be removed  
in cases of  
overloading.

17. (1) If the weighbridge-officer is not satisfied that an offence against section 5 has been committed, he shall inform the police-officer or person who seized the animal accordingly, and that officer or person shall forthwith release the animal and load.

(2) If the weighbridge-officer is satisfied that an offence against section 5 has been committed, he shall cause the excess load to be removed.

Unfit animal  
to be taken to  
Veterinary  
Inspector.

18. Any police-officer, or any other person duly authorized by the '[Provincial Government]' in this behalf, who has reason to believe that an offence against section 10 is being committed in respect of any animal, shall seize and take it, together with its load, if any, and the person in charge of the animal, to the weighbridge, if any, appointed for the area, within which such seizure is made, or, in the case of there being no weighbridge appointed for the area, to the nearest police-station, and shall remove the load forthwith and report the fact of such seizure to the Veterinary Inspector in charge of that area.

<sup>1</sup>See foot-note 3 on p. 3, ante.

1920.]

*(Weighbridges and Infirmaries.—Sec. 19.)*

19. (1) Any excess load removed from an animal under section 17, sub-section (2), and any load which was being carried by an animal seized under section 18, and taken to the weighbridge, shall be kept by the weighbridge-officer, at the risk of the owner of such load, at the weighbridge, or at any other place appointed by the <sup>1</sup>[Provincial Government] for the purpose, and, <sup>2</sup>[the weighbridge-officer shall by written notice direct the owner of the load to remove it from the weighbridge within a period to be specified in such notice].

Excess load to be treated as unclaimed property in certain circumstances.

<sup>3</sup>(1a) At any time before the expiration of the period referred to in sub-section (1) the owner of the load may remove it free of charge from the weighbridge.

<sup>3</sup>(1b) The weighbridge-officer may, at the request of the owner of the load referred to in sub-section (1), forward the load to its destination on payment by the owner of all costs incurred or liable to be incurred in its removal, detention and forwarding.

<sup>3</sup>(1c) If the load is not removed from the weighbridge within the period referred to in sub-section (1) it shall be made over by the weighbridge-officer to the police or any person duly authorised by the <sup>1</sup>[Provincial Government] in this behalf.

(2) Any load which was being carried by an animal seized under section 18 and taken to a police-station, shall be kept by the officer in charge of the police-station, at the police-station, or at any other place appointed by the <sup>1</sup>[Provincial Government] for this purpose. The said load shall be kept during the first forty-eight hours of such detention at the risk of the owner thereof, and he may remove the same during that period <sup>4</sup>[free of charge.]

(3) <sup>5</sup>(a) The officer in charge of the police-station or the person authorised under sub-section (1), in the case of any loan made over to him by the weighbridge-officer, and

(b) the officer in charge of the police-station, in the case of any load kept by him under sub-section (2) which has not been removed by the owner within forty-eight hours,

shall enter, in a register to be kept for the purpose, such particulars of the load as may be prescribed by

<sup>1</sup>See foot-note 3 on p. 3, *ante*.

<sup>2</sup>These words were substituted by s. 4(1) of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>3</sup>Sub-sections (1a), (1b) and (1c) were inserted by s. 4 (2), *ibid*.

<sup>4</sup>These words were added by s. 4(3), *ibid*.

<sup>5</sup>These words were substituted by s. 4 (4) (a), *ibid*.

(Weighbridges and Infirmaryes.—Secs. 20, 21.)

rules made under section 29, and the load shall thereafter be returned to the person who proves to the satisfaction of the Commissioner of Police <sup>1</sup>[or the person authorised by the <sup>2</sup>Provincial Government in this behalf] that the same belongs to him, on payment of all costs incurred in the removal and detention of such load:

Provided that if the load, or any part thereof, consisted of articles which are subject to speedy and natural decay, or consists of livestock, that load, or part thereof, may forthwith be sold or otherwise disposed of under the orders of the Commissioner of Police <sup>1</sup>[or the person authorised by the <sup>2</sup>Provincial Government in this behalf] in accordance with rules made under section 29; and the sale-proceeds, after deducting therefrom all expenses incurred in the removal, detention and sale of the entire load, shall be made over to the owner, on proof of his ownership, within six months from the date of entry in the register.

<sup>3</sup>(4) All costs for the removal, detention and forwarding of all loads under this section shall be payable by the owner of the goods according to such scale of rates as the <sup>2</sup>[Provincial Government] may prescribe by rules made under section 29.

**Disposal of sale proceeds.**

**20.** If within six months from the date of entry in the register no person satisfies the Commissioner of Police <sup>4</sup>[or the person authorised under sub-section (3) of section 19] that he is the owner of the load, the Commissioner <sup>5</sup>[or the person authorised, as the case may be] may cause it to be sold or otherwise disposed of in accordance with rules made under section 29, and the proceeds of the sale under this section, or of the sale under the proviso to sub-section (3) of section 19, after deducting therefrom all expenses, shall be applied in such manner as the <sup>2</sup>[Provincial Government] may prescribe by rules made under section 29.

**Production of animal for examination by Veterinary Inspector.**

**21.** (1) Any police-officer, or any other person duly authorised by the <sup>2</sup>[Provincial Government] in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, may, if the circumstances so require, seize the animal and produce the same for examination by the Veterinary Inspector in charge of the area in which the animal is seized.

<sup>1</sup>These words were inserted by s. 4(4) (b) of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>2</sup>See foot-note 3 on p. 3, *ante*.

<sup>3</sup>Sub-section (4) was added by s. 4(5) of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>4</sup>These words were inserted by s. 5(1), *ibid*.

<sup>5</sup>These words were inserted by s. 5(2), *ibid*.

[of 1920.]

*(Weighbridges and Infirmaries.—Secs. 22-24.)*

(2) The police-officer or person who seizes any animal under sub-section (1) may require the person in charge of the animal to accompany it to the place of examination.

**22.** (1) For the purposes of the examination of an animal sent to a Veterinary Inspector in accordance with the provisions of section 21, he may submit the animal to any test which the '[Provincial Government] may prescribe by rules made under section 29.

**Examination of animals by Veterinary Inspector.**

(2) If on such examination, the Veterinary Inspector is of opinion that the animal is unfit to be employed on the work or labour on which it was employed at the time of its seizure, he shall either send the animal for treatment and care to an infirmary appointed under section 14, and inform the owner of the animal of his having done so, or (if he considers that a prosecution is necessary, or if the owner of the animal so elects) direct the prosecution of the offender and produce the animal before the Magistrate.

**23.** The Magistrate before whom a prosecution for any offence under this Act has been instituted may, if he thinks fit, direct that the animal, in respect of which the offence is alleged or proved to have been committed, shall be sent for treatment and care to an infirmary appointed under section 14.

**Power of Magistrate to send animal to infirmary.**

**24.** (1) When any animal has been sent to an infirmary in accordance with the provisions of section 22, sub-section (2), or of section 23, it shall be detained there until, in the opinion of the officer in charge of the infirmary, it is cured, or again fit for the work or labour on which it is the intention of the owner to employ it.

**Detention and cost of treatment of animals at infirmaries.**

(2) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal, according to such scale of rates as the '[Provincial Government] may prescribe.

(3) If the owner refuses or neglects to pay such cost, or to remove the animal within such time as the officer in charge of the infirmary may prescribe, that officer may direct that the animal be sold and the proceeds of the sale be applied to the payment of such cost.

(4) The surplus, if any, of the proceeds of the sale shall, on application to be made by the owner within two months after the date of the sale, be paid to him; but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

<sup>1</sup>See foot-note 3 on p. 3, *ante*.

*(Weighbridges and Infirmarys.—Procedure.—*  
*Secs. 25, 26.)*

(5) If no application is made by the owner for the surplus sale-proceeds within the period prescribed under sub-section (4), these proceeds shall be applied in such manner as the <sup>1</sup>[Provincial Government] may prescribe by rules made under section 29.

(6) If an animal cannot be sold under sub-section (3) the officer in charge of the infirmary may dispose of it in such manner as the <sup>1</sup>[Provincial Government] may prescribe by rules made under section 29.

**Destruction of  
suffering or  
unfit animals.**

**25.** (1) When any Magistrate, the Commissioner of Police, or any Deputy Commissioner of Police has reason to believe that an offence against this Act has been committed in respect of any animal, the Magistrate, Commissioner of Police or Deputy Commissioner of Police may direct the immediate destruction of the animal, if, in his opinion, its physical condition is such as to render such a direction proper.

(2) When any animal is sent to an infirmary in accordance with the provisions of section 22, sub-section (2), or of section 23, the officer in charge of the infirmary may direct the immediate destruction of the animal, if, in his opinion, its physical condition is such as to render such direction proper, or if he considers it to be permanently unfit for work by reason of old age or some incurable disease:

Provided that no order directing destruction shall be made in respect of any bull, bullock or cow which is unfit for work by reason only of old age.

(3) Any police-officer who finds any animal so diseased, or so severely injured, or in such a physical condition, that it cannot without cruelty be removed, shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon the Veterinary Inspector in charge of the area in which the animal is found and, if the Veterinary Inspector certifies that the animal is mortally injured, or so severely injured, or so diseased, or in such a physical condition, that it is cruel to keep it alive, the police-officer may, without the consent of the owner, kill the animal or cause it to be killed.

*Procedure.*

**26.** (1) Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, or any person against whom he has received credible information of having committed an offence against this Act, if the name and address of

<sup>1</sup>See foot-note 3 on p. 3, ante.

[1920.]

(Procedure.—Secs. 27, 28.)

**Volume IV.**

**Page 13—**

*In the proviso to sub-section (2) of section 26 omit the word "British".*  
(Omitted by Adaptation Order, 1950, paragraph 3 and the Eleventh Schedule.)

*[No. 47, dated the 1st February, 1952.]*

required :

Provided that if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) If the true name and address of such person is not ascertained within twenty-four hours from the time of arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

27. If a police-officer, not below the rank of Sub-Inspectors, has reason to believe that an offence against section 7 in respect of a goat is being or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin and any article or thing used or intended to be used in the commission of such offence.

Special power  
of search and  
seizure in  
respect of  
certain offences.

28. (1) If a Presidency Magistrate, a Magistrate of the first class, the Commissioner of Police or a Deputy Commissioner of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 6, section 7 or section 10 is being or is about to be, or has been, committed in any place, he may, at any time by day or by night, without notice, either himself enter and search, or, by his warrant, authorize any police-officer above the rank of a constable to enter and search, the place.

Search warrants.

Act V of  
1898.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search made under sub-section (1) or under section 27.



(Rules.—Sec. 29.)

*Rules.*

Power of  
Provincial  
Government to  
make rules.

29. (1) The <sup>1</sup>[Provincial Government] may, from time to time, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the <sup>1</sup>[Provincial Government] may make rules—

- (a) prescribing the maximum weight of the loads to be carried on or drawn by animals;
- (b) for preventing the overcrowding of animals;
- <sup>2</sup>(hh) prescribing the period during which and hours between which buffaloes shall not be used for draught purposes;
- (c) for regulating the use of tests and the manner of examination of animals;
- (d) prescribing the qualifications of persons to be appointed to be Veterinary Inspectors and weighbridge-officers;
- (e) prescribing the procedure to be followed after removal of a load under section 17, sub-section (2), or under section 18;
- (f) prescribing the particulars to be entered in the register maintained under section 19, sub-section (3);
- (g) prescribing such other forms or registers as may be required for carrying out the purposes of this Act;
- (h) for carrying out the provisions of the proviso to sub-section (3) of section 19 and of section 20 in regard to the disposal of loads;
- <sup>3</sup>(hh) prescribing the scale of rates of all costs and charges payable under section 19;
- (i) prescribing the manner in which fines realized under this Act and sale-proceeds realized under section 20 and section 24, sub-section (5), shall be applied;
- (j) for carrying out the provisions of section 24, sub-section (6), in regard to the disposal of animals; and
- (k) for regulating the destruction of animals under section 25.

<sup>1</sup>See foot-note 3 on p. 3, *ante*.

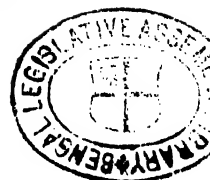
<sup>2</sup>Clause (bb) was inserted by s. 6(1) of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>3</sup>Clause (hh) was inserted by s. 6(2), *ibid*.

of 1885.]

(Miscellaneous.—Secs. 30-36.)

*Miscellaneous.*



**30.** The <sup>1</sup>[Provincial Government] may delegate, under such restrictions as they consider fit, any of the powers conferred upon them by sections 13, 14, 15, 16, 18, 19, 21 and 24, sub-section (2), of this Act to any person or local authority.

Delegation of powers.

**31.** Every appointment made by a local authority under section 15, in exercise of the power delegated to it under section 30, shall be deemed to be an appointment made under the Act by which such local authority is constituted.

Appointments made by local authority.

**32.** A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of such offence.

Limitation of time for prosecutions.

Act XLV of 1860.

**33.** Every person appointed under section 15, 16, 18 or 21 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Persons appointed under section 15, 16, 18 or 21 to be public servants.

**34.** No suit, prosecution or other legal proceeding shall lie against any person who is, or who has been declared to be, a public servant within the meaning of section 21 of the Indian Penal Code for anything which is, in good faith, done or intended to be done under this Act.

Indemnity.

Ben. Act III of 1923.

Ben. Act XV of 1932.

Ben. Act III of 1885.

**35.** Notwithstanding anything contained in <sup>2</sup>[the Calcutta Municipal Act, 1923,] the Bengal Municipal Act <sup>3</sup>[1932], or the Bengal Local Self-Government Act of 1885, the Corporation, the Commissioners of a Municipality or the District Board may provide from the funds at their disposal such sums as may be necessary for paying the expenses incidental to the exercise of any of the powers delegated to them under section 30.

Power of local authority to pay certain expenses.

**36.** Whenever this Act is extended to any town or place outside Calcutta, under section 1, sub-section (3), the <sup>1</sup>[Provincial Government] may, by notification, appoint persons, either by name or by official designation, to exercise and perform in such town or place the same powers and duties as are conferred or imposed by this Act on the Commissioner of Police.

Effect when Act is extended outside Calcutta.

<sup>1</sup>See foot-note 3 on p. 3, *ante*.

<sup>2</sup>These words were substituted for the words "the Calcutta Municipal Act, 1899" by s. 7 of the Bengal Cruelty to Animals (Amendment) Act, 1926 (Ben. Act VII of 1926).

<sup>3</sup>This figure was substituted for the figure "1884" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).



## Bengal Act II of 1920

[The Eastern Frontier Rifles (Bengal Battalion) Act, 1920.]<sup>1</sup>

(31st March 1920.)

*An Act to amend the law relating to the regulation of the Eastern Frontier Rifles (Bengal Battalion).*

WHEREAS it is expedient to amend the law relating to the maintenance of discipline among riflemen;

And whereas the previous sanction of the Governor General has been obtained under section 79, sub-section (2), of the Government of India Act, 1915, to the passing of this Act;

5 and 6  
Geo. V.,  
c. 61.

It is hereby enacted as follows:—

1. (1) This Act may be called the Eastern Frontier Rifles (Bengal Battalion) Act, 1920;

Short title,  
local extent and  
commencement.

(2) It extends to the whole of Bengal; and

(3) It shall come into force on such day<sup>2</sup> as the<sup>3</sup> [Provincial Government] may, by notification in the<sup>4</sup> [Official Gazette], direct.

2. [Repeal.] *Rep. by the Bengal Repealing and Amending Act, 1938 (Bengal Act I of 1939.)*

3. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "active service" means service at outposts or against hostile tribes or other persons in the field;

(2) "Commandant" or "Assistant Commandant" means a person appointed by the<sup>3</sup> [Provincial Government] to be a Commandant or an Assistant Commandant of the Eastern Frontier Rifles (Bengal Battalion), hereinafter referred to as the battalion;

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1919, Pt. IV, p. 185; and for Proceedings in Council, see *ibid.*, Pt. IVA, pp. 1330-1331, and p. 1414, and see *Calcutta Gazette*, 1920, Pt. IVA, p. 55, and pp. 154-55.

<sup>2</sup>The Act came into force on the 1st May, 1920, see notification No. 1918P.J., dated the 30th April, 1920, published in the *Calcutta Gazette*, 1920, Pt. I, p. 878.

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>These words were substituted for the words "*Calcutta Gazette*", *ibid.*

18 *The Eastern Frontier Rifles (Bengal Battalion)  
Act, 1920.*

[Ben. Act II

(Sec. 4.)

(3) "District Magistrate" includes a Deputy Com-  
missioner of the

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In clause (4) of section 3, for the words and figure "1, who V of 1861.  
"appointed under section 7 of" substitute the words "enrolled due to  
under". provisions

(Substituted by Ben. Act II of 1940, section 2.)

[No. 3, dated the 15th March, 1940.]

Police Regulation, 1857; or the Eastern Bengal and Assam Military Police Act, 1912; Act II of 1912.

(5) "superior officer" means, in relation to any  
rifleman,—

(a) any officer of a higher class than, or of a  
higher grade in the same class as himself,  
and

(b) any Assistant Commandant, Commandant or  
District Magistrate;

(6) the expressions "reasons to believe," "criminal  
force," "assault," "fraudulently" and  
"voluntarily causing hurt" have the mean-  
ings assigned to them respectively in the  
Indian Penal Code. Act XLV  
of 1860.

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Appointments  
and  
discharge.

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To sub-section (1) of section 4, add the following  
proviso:—

"Provided that, in respect of a police-officer enlisted  
under this Act after the commencement of the Eastern  
Frontier Rifles (Bengal Battalion Amendment) Act,  
1941, for the words 'three years' in the statement in  
the schedule the words 'seven years' shall be substi-  
tuted."

(Added by Ben. Act VII of 1941, section 2.)

[No. 15, dated the 14th October, 1941.]

\*Repealed in Bengal by Bengal Act I of 1914, Sch. IV.

\*Repealed by Eastern Bengal and Assam Act III of 1912.

\*Repealed, see s. 2.

**The Eastern Frontier Rifles (Bengal Battalion) 19  
Act, 1920.**

of 1920.]

(Secs. 5, 6.)

**5.** There may be all or any of the following classes of riflemen, who shall take rank in the order mentioned, namely:—

Classes and  
rank of riflemen.

- (i) *Subadars-Major*,
- (ii) *Subadars*,
- (iii) *Jamadars*,
- (iv) *Havildars-Major*,
- (v) *Havildars*,
- (vi) *Naiks*,
- (vii) *Buglers and sipahis*,

and such grades in each class as the [Provincial Government] may, from time to time, direct.

**6.** A rifleman who—

Heinous  
offences.

- (a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence, of any mutiny or sedition, does not without delay give information thereof to his Commanding or other superior officer; or
- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such, whether on or off duty; or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend; or
- (d) in the presence of an enemy or of any person in arms against whom it is his duty to act, shamefully casts away his arms or his ammunition, or intentionally uses words or any other means to induce any other rifleman to abstain from acting against the enemy, or any such person, or to discourage such officer from acting against the enemy or such person, or who otherwise misbehaves; or
- (e) directly or indirectly holds correspondence with, or communicates intelligence to, or assists, or relieves, any enemy or person in arms against the State, or omits to discover

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Act, 1920.**

**[Sec. Act II]**

**(Sec. 7.)**

immediately to his Commanding or other superior officer any such correspondence or communications coming to his knowledge; or

- (f) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects any enemy or person in arms against the State; or

who, while on active service—

- (g) disobeys the lawful command of his superior officer; or
- (h) deserts or attempts to desert the service; or
- (i) being a sentry, sleeps at his post, or quits it without being regularly relieved or without leave; or
- (j) without authority leaves his Commanding Officer, or his post or party, to go in search of plunder; or
- (k) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- (l) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or
- (m) intentionally causes or spreads a false alarm in action, camp, garrison or quarters;

shall be punished with transportation for life, or with imprisonment which may extend to fourteen years to which a fine not exceeding five hundred rupees may be added, or with a fine not exceeding five hundred rupees.

Other offences,  
including acts  
prejudicial to  
good order and  
discipline.

**7. A rifleman who—**

- (a) is in a state of intoxication when on or detailed for any duty, or on parade, or on the line of march; or
- (b) strikes, or forces or attempts to force, any sentry; or

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**Act, 1920.**

[Amended]

(Sec. 7.)

- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or, whether in such command or not, releases any prisoner without proper authority or negligently suffers any prisoner to escape; or
- (d) being deputed to any guard, picquet or patrol, quits it without being regularly relieved or without leave; or
- (e) being in command of a guard, picquet or patrol, permits gambling or other behaviour prejudicial to good order and discipline; or
- (f) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or
- (g) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (h) refuses to superintend or assist in the making of any field work or other military work of any description ordered to be made either in quarters or in the field; or
- (i) strikes or otherwise ill-uses any rifleman subordinate to him in rank or position; or
- (j) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority; or
- (k) designedly or through neglect injures or loses or fraudulently or without due authority disposes of his arms, clothes, tools, equipment, ammunition, accoutrements or other necessaries, or any such articles entrusted to him or belonging to any other person; or
- (l) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or
- (m) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or



**23 The Eastern Frontier Rifles (Bengal Battalion)  
Act, 1920.**

[Ben. Act 19]

(Sec. 8.)

- (n) commits extortion, or without proper authority exacts from any person carriage, portage or provisions; or
- (o) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse, or any animal used in the public service; or

who, while not on active service,—

- (p) disobeys the lawful command of his superior officer; or
- (q) plunders, destroys or damages any property of any kind; or
- (r) being a sentry, sleeps at his post or quits it without being regularly relieved or without leave; or
- (s) deserts or attempts to desert the service; or
- (t) neglects to obey any battalion or other orders, or commits any act of omission prejudicial to good order and discipline, such act or omission not constituting an offence under the Indian Penal Code or any other Act in force in Bengal,

Act XLV  
of 1860.

shall be punished with imprisonment for a term which may extend to one year, or with a fine not exceeding two hundred rupees, or with both.

**Minor offences  
and punishments**

8. (1) A District Magistrate or a Commandant, or, subject to the control of the Commandant, an Assistant Commandant, and, subject to the same control, an officer not below the rank of a *Jamadar* commanding a separate detachment or an outpost or in temporary command of the battalion at the head-quarters of a district during the absence of the District Magistrate, Commandant and Assistant Commandant, may, without a formal trial, award to any bugler or *sipahi* who is subject to his authority, any of the following punishments for the commission of any petty offence against discipline, which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say—

- (a) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of pay and allowances during its continuance;

**The Eastern Frontier Rifles (Bengal Battalion) Act, 1920.**

[Secs.]

(Secs. 9-12.)

(b) punishment drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to lines;

(c) forfeiture of pay and allowances for a period not exceeding one month.

(2) Any of these punishments may be awarded separately or in combination with any one or more of the others.

9. Any rifleman sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the police force, be imprisoned in the nearest or such other jail as the <sup>Manner of imprisonment.</sup> [Provincial Government] may, by general or special order, direct, but, when he is not also dismissed from that force, he may, if the convicting court or the District Magistrate so directs, be confined in the quarter-guard or such other place as the Court or Magistrate may consider suitable.

V of 1861. 10. Notwithstanding anything contained in the Police Act, 1861, or in any other enactment for the time being in force, the <sup>Powers of Commandants and Assistant Commandants for inquiring into offences under this and other Acts.</sup> [Provincial Government] may invest any Commandant or Assistant Commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a rifleman and punishable under the Police Act, 1861, or this Act, and any offence committed by a rifleman against the person or property of another rifleman and punishable under any section of the Indian Penal Code or of any other Act in force in Bengal.

Act XLV of 1860.

11. A Commandant or Assistant Commandant shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of the Police Act, 1861, section 125 of the Indian Evidence Act, 1872, and under any other enactment for the time being in force; <sup>Privileges of Commandants and Assistant Commandants.</sup>

I of 1872.

and shall, subject to such rules as the <sup>1</sup>[Provincial Government] may from time to time make in this behalf, exercise all the powers of a District Superintendent of Police within the meaning of the Police Act, 1861.

12. The <sup>Power of Provincial Government to make rules.</sup> [Provincial Government] may, as regards the battalion, make such orders and rules, consistent with this Act, as they think expedient, relative to the several matters respecting which the Inspector-General of Police, with the approval of the <sup>1</sup>[Provincial Government] may, as regards the police force, frame orders and rules under section 12 of the Police Act, 1861.

<sup>1</sup>See foot-note 3 on p. 17, ante.

**24 The Eastern Frontier Rifles (Bengal Battalion)  
Act, 1920.**

[Ben. Act II of 1920.]

(The Schedule.)

**THE SCHEDULE.**

**STATEMENT.**

(See sections 3 and 4.)

After you have served for three years in the Eastern Frontier Rifles (Bengal Battalion), you may, at any time when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to a Commandant of the Battalion, or to the Magistrate of the district in which you may be serving; and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the battalion to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge and you must remain and do your duty until the necessity for retaining you in the battalion ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

Signature of officer in  
acknowledgement of the  
above having been read  
to him.

A. B.

Signed in my presence after  
I had ascertained that  
A. B. understood the  
purport of what he  
signed.

C. D.

*Magistrate, Commandant  
or Assistant Commandant.*

# Bengal Act V of 1920

(The Bengal Alluvial Lands Act, 1920).<sup>1</sup>

(13th October 1920.)

*An Act to prevent disputes concerning the possession of certain lands in Bengal gained by alluvion, or by dereliction of a river or the sea.*

WHEREAS it is expedient to make provision for the prevention of disputes concerning the possession of certain lands in Bengal gained by alluvion, or by dereliction of a river or the sea;

5 and 6  
Geo. V.  
c. 61.

AND WHEREAS the previous sanction of the Governor General has been obtained, under section 79, sub-section (2), of the Government of India Act, 1915, to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Alluvial Lands Act, 1920. Short title and extent.

(2) It extends to the whole of Bengal.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

Ben. Reg.  
XI of  
1825.  
IX of 1847.  
Ben. Act  
IV of  
1868.

(a) "alluvial land" means land which is gained from a river or the sea in any of the ways referred to in the Bengal Alluvion and Diluvion Regulation, 1825, the Bengal Alluvion and Diluvion Act, 1847, or the Bengal Alluvion (Amendment) Act, 1868, and includes reformatations *in situ*; and

(b) "Collector" means the Collector of a district or a subdivisional officer or any other officer not below the rank of a Deputy Collector exercising the powers of a magistrate of the first class appointed by the <sup>2</sup>[Provincial Government], to discharge any of the functions of a Collector under this Act.

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1920, Pt. IV, p. 15; and for Proceedings in Council, see *ibid.*, Pt. IVA, pp. 155—157, and p. 196 and pp. 793—800 and pp. 915—942.

<sup>2</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Ben. Act V

## (Sec. 3.)

Power of Collector to attach alluvial land.

3. (1) Notwithstanding anything contained in the Bengal Alluvion and Diluvion Regulation, 1825, the Bengal Alluvion and Diluvion Act, 1847, or the Bengal Alluvion (Amendment) Act, 1868, the Collector, if he is credibly informed that a dispute likely to cause a breach of the peace exists or is likely to arise, in regard to any alluvial land which in his opinion has recently formed, may, after making an order in writing, stating the grounds therefor, in the interests of public order, attach such land, and may demarcate it with boundary pillars.

Ben. Reg.  
XI of 1825.  
IX of 1847.  
Ben. Act  
IV of  
1868.

<sup>1</sup>(1a) Where such land is situated within the limits of more than one district, or it is doubtful within the limits of which district or districts such land is situated any Collector who considers that any portion of such land is situated within the limits of his district may, after recording his reasons therefor, attach the whole of such land. If, after attachment, such land or any portion thereof is found to be situated within any other district or is transferred to another district, the attachment shall continue to be valid but the Collector who attached the land may either transfer the case, in respect of the whole or any portion of the attached land, for disposal to the Collector of any such other district or may himself continue the proceedings under the provisions of this Act. The Collector to whom a case is transferred for disposal under this sub-section shall be deemed, for the purposes of this Act, to have attached the land under this section.

(2) When the Collector attaches any alluvial land under sub-section (1) <sup>2</sup>[or sub-section (1a)], he may himself manage such land during the period of attachment, or may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Collector, shall have all such powers conferrable on a receiver appointed under the Code of Civil Procedure, 1908, as may be given to him by the Collector:

Act V of  
1908.

Provided that neither the Collector nor the receiver shall make a settlement or resettlement of any land <sup>3</sup>[for a period exceeding one year nor shall he charge any *salami* for such settlement or resettlement.]

(3) Nothing in this section shall preclude any party interested from showing, before the Collector makes an

<sup>1</sup>Sub-section (1a) was inserted by s. 2(1) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>2</sup>These words were inserted by s. 2 (2) (i), *ibid.*

<sup>3</sup>These words were substituted for the words "for a period exceeding three years" by s. 2(2)(ii), *ibid.*

[1909.]

(Sec. 4.)

order of reference under section 5, sub-section (1), that no such dispute as aforesaid exists or is likely to arise; and the Collector, if satisfied that no such dispute as aforesaid exists or is likely to arise, shall cancel his order of attachment under sub-section (1), <sup>1</sup>[or sub-section (1a)], and all further proceedings thereon shall be stayed, but, subject to such cancellation, the said order shall be final. <sup>2</sup>[The Collector may, if he thinks fit, cancel his order of attachment under sub-section (1) or sub-section (1a) in respect of a portion of the attached land and continue proceedings in respect of the remainder of such land.]

<sup>3</sup>(4) When an order of attachment of any alluvial land is cancelled under sub-section (3), the Collector shall issue a notice in the prescribed manner inviting claims to the net receipts from the land during attachment, and shall order the payment of such receipts to the persons who, in his opinion, are entitled to the same. The net receipts shall be calculated by deducting from the gross receipts the costs incurred under this section, and under section 4, sub-section (1), and section 4A, sub-section (1), and the cost of preparation of the reference to be made under section 5, sub-section (1), if any.

<sup>3</sup>(5) In estimating for the purposes of sub-section (4), section 5, and section 7 the costs incurred under this section, the following costs shall be included in the cost of management, namely:—

- (a) the rate leviable under the Government Management of Private Estates Act, 1892,
- (b) the cost of special staff, if any, and
- (c) where no special staff is employed for collection, a sum not exceeding five *per centum per annum* on the actual collections.

X of  
1892.

4. (1) When the Collector has attached any alluvial land under section 3, he shall as soon as possible cause a survey to be made and a map to be prepared of the land, including the revenue, diara and other relevant survey lines.

Collector to  
cause survey to  
be made.

(2) The survey made under sub-section (1) shall be deemed to be survey under the Bengal Survey Act, 1875, and the Collector shall exercise in respect of such

Ben. Act  
V of  
1875.

<sup>1</sup>These words were inserted by s. 2(3)(i) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>2</sup>These words were added by s. 2(3)(ii), *ibid.*

<sup>3</sup>Sub-sections (4) and (5) were inserted by s. 2(4), *ibid.*

## (Sec. 4A.)

survey all powers which he is empowered to exercise for the purposes of inquiries and surveys under that Act.

(3) Notwithstanding anything contained in section 83 of the Indian Evidence Act, 1872, a map prepared under sub-section (1) shall be presumed by the Court to be accurate until the contrary is shown. I of 1872.

**List of  
claimants.**

<sup>1</sup>4A. (1) When the Collector has attached any alluvial land under section 3, he shall as soon as possible issue a notice in the prescribed manner calling upon all persons claiming title to any part of such land to file statements specifying their claims and the grounds thereof, and the name and jurisdiction number of the village and the *tauzi* number of the estate to which they allege that the land appertains.

If any of the aforesaid claimants is not a proprietor of such estate, he shall also mention in the statement the name of the landlord under whom he holds the land, the area and the rent of his tenancy and such other particulars as may be necessary to elucidate his claim.

If the land is included in a map as prepared or a record-of-rights as finally published under Chapter X of the Bengal Tenancy Act, 1885, the claimant shall also mention the particulars of the *khatians* and plot numbers necessary to identify the land in the map or record-of-rights. VIII of 1885.

(2) On receipt of a statement of claim referred to in sub-section (1) the Collector shall examine the claim and call for such further particulars, if any, as he considers necessary, and shall, if he is satisfied that the claim is *bona fide*, enter the name of the claimant in the list of claimants. The Collector may exclude from the said list the name of any claimant who fails to supply any of the required particulars. If any part of the attached land is claimed <sup>2</sup>[by any Government], the Collector shall <sup>3</sup>[include that Government] in the said list of claimants.

(3) An application for inclusion in the list of claimants by a person with whom any of the land has been settled or resettled during the period of attachment shall not be considered unless it alleges a title independent of such settlement or resettlement.

<sup>1</sup>Section 4A was inserted by s. 3 of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>2</sup>These words were substituted for the words "by Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>These words were substituted for the words "include Government", *ibid.*

*The Bengal Alluvial Lands Act, 1920.*

20

(Sec. 5.)

5. (1) When the survey and map referred to in section 4, sub-section (1), have been completed the Collector shall as soon as possible pass an order making a reference to the principal Civil Court of original jurisdiction in the district for a decision as to what person has a title to the land, <sup>1</sup>[and shall include in the order the list of claimants referred to in section 4A and shall state—

Reference to  
Civil Court.

- (a) whether any land claimed by any such claimant has been identified as being included in the land which is the subject of the reference,
- (b) the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the cost of preparation of the reference made under this sub-section,
- (c) the value of the land, and
- (d) the names of any persons who have filed statements of claim under section 4A and whose names are not included in the list of claimants.]

<sup>2</sup>In the case of any land referred to in section 3, sub-section (1a), the reference shall be made to the principal Civil Court of original jurisdiction in the district in which, in the opinion of the Collector, the major portion of the attached land is situated.

<sup>3</sup>(1a) In making such reference the Collector shall advance the court-fees payable under the Court-fees Act, 1870, on a plaint in a suit for determination of title to land and such process-fees as may be required for service of notices on the parties to the reference. The Collector may make such advance from the balance of the receipts at credit in his accounts of the attached land, or, if this is not practicable, may at any time recover such advance or any part thereof from such balance.

(2) On receipt of a reference made under sub-section (1), the principal Civil Court of the district may either proceed to determine the matter or may transfer the matter for determination to any other Civil Court subordinate to such Court competent to try or dispose of a suit for the determination of title to the land.

The said Court shall issue notices <sup>4</sup>[to all the persons mentioned in the list of claimants referred to in

VII of  
1870.

<sup>1</sup>These words within square brackets were substituted for the original words by s.4(1) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>2</sup>This paragraph was added by s. 4(2), *ibid.*

<sup>3</sup>Sub-section (1a) was inserted by s. 4(3), *ibid.*

<sup>4</sup>These words were substituted for the original words by s. 4(4) (i), *ibid.*



(Sec. 5.)

section 4A] to appear and file statements of their respective claims. <sup>1</sup>[No other person shall be made a party to the reference unless the said Court is satisfied that for some reason not due to wilful default or negligence on the part of such person he was unable to file a statement of claim referred to in section 4A, sub-section (1), in due time or that the Collector has without sufficient reason held that such person's claim was not *bona fide*. A person pleading ignorance of the issue of the notice under that sub-section shall not be made a party to the reference unless he proves to the satisfaction of the said Court that he had no knowledge that the land had been attached.] The said Court shall also determine which of the claimants has the right to begin at the hearing of the reference.

(3) Save as otherwise provided in this Act, a reference made under sub-section (1), shall be deemed to be a suit for all the purposes of the Code of Civil Procedure, 1908, and every decision by a Civil Court under sub-section (2), shall be deemed to be a decree within the meaning of that Code and appealable as such.

Act V of  
1908.

<sup>2</sup>(4) The said Court shall decide to whom and in what proportions the net receipts, if any, from the land during attachment shall be paid. The net receipts shall be calculated by deducting from the gross receipts the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the costs incurred by the Collector in the proceedings under this section including the cost of preparation of the reference made under sub-section (1).

<sup>3</sup>(5) The said Court shall also decide by whom and in what proportions the costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the costs incurred by the Collector and by the other parties in the proceedings under this section including the cost of preparation of the reference made under sub-section (1), are payable.

<sup>4</sup>(6) If the costs referred to in sub-section (4) exceed the gross receipts the Court shall decide by whom and in what proportions the amount of such excess shall be payable, and such amount shall be recoverable by the Collector, in accordance with the decision of the Court, from the persons liable, as arrears of a public demand.

<sup>1</sup>These words were inserted by s. 4(4)(ii), of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>2</sup>Sub-sections (4) to (6) were substituted for the original sub-section (4), by s. 4(5), *ibid*.

[1930.]

(Secs. 6-8.)

<sup>1</sup>(7) The person entitled to the net receipts may apply to the Court for the recovery from the persons liable of any amount deducted from the gross receipts in excess of the amount, so deducted, for which he is himself liable. If <sup>2</sup>[the Crown] are entitled to the net receipts or to any part thereof the Collector may recover as arrears of a public demand any amount due to <sup>3</sup>[the Crown] or may apply to the Court for the recovery of the same.

<sup>1</sup>(8) A reference made under sub-section (1) shall not be dismissed for default but the said Court shall decide the same after taking the evidence of such of the claimants mentioned by the Collector in the order of reference or added by the Court under section 5, sub-section (2), as it may think necessary.

6. Whenever the Court makes an order under section 5, sub-section (2), it shall certify to the Collector its decision, and the Collector shall thereupon put the person stated in such order to be entitled to the land in possession thereof.

Taking possession of land by person entitled to it.

7. (1) Every order under section 3, sub-section (3), shall state the amount of <sup>2</sup>[costs incurred under section 3, section 4, sub-section (1), section 4A, sub-section (1), and the cost of preparation of the reference to be made under section 5, sub-section (1), if any,] and by what persons and in what proportions they are to be paid, and such costs shall be recoverable as arrears of a public demand.

Costs.

(2) Any person against whom an order has been made with regard to such costs, may, within one month of the date of such order, prefer an appeal to the Commissioner in respect of such costs.

8. The <sup>4</sup>[Provincial Government] may, subject to the condition of previous publication by notification in the <sup>5</sup>[Official Gazette], make rules—

Rules.

(1) to regulate the procedure to be followed by the Collector in attaching any alluvial land under section 3;

<sup>1</sup>See foot-note 2 on p. 30, ante.

<sup>2</sup>These words were substituted for the word "Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>These words were substituted for the words "costs incurred under section 3, and section 4, sub-section (1), if any," by s. 5 of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>4</sup>See foot-note 2 on p. 25, ante.

<sup>5</sup>These words were substituted for the words "Calcutta Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Ben. Act V of 1920.]

(Secs. 9, 10.)

- (2) to regulate the procedure to be followed by the Collector or receiver in the management of such land during the period of attachment;
- (3) to regulate the procedure to be followed by the Collector in demarcating, surveying and preparing a map of, any alluvial land;
- <sup>1</sup>(3a) to regulate the procedure to be followed by the Collector in distributing the net receipts from attached land, when the attachment is cancelled under section 3, sub-section (3), and when the Civil Court passes a decree under section 5;
- <sup>1</sup>(3b) to regulate the issue of notices prescribed under section 3, sub-section (4), or under section 4A, sub-section (1);
- (4) to regulate the procedure to be followed in making a reference to the Court under section 5, sub-section (1);
- • • • •
- (6) to regulate the manner of making over possession of alluvial land under section 6; \*\* \* \*
- <sup>2</sup>(6a) to provide for the creation of an Alluvial Lands Dispute Fund in any district and the administration of the same; and
- (7) generally to carry out the purposes of this Act.

**Indemnity.**

9. No suit or other legal proceedings shall lie against the Collector, or any person acting under his direction, for any act done or ordered to be done in good faith under this Act.

Bar to institution of proceedings under section 145 of the Code of Criminal Procedure.

10. When the Collector has attached any alluvial land under section 3, no proceedings under section 145 of the Code of Criminal Procedure, 1898, shall be instituted in any Court in respect of the same land, or of any part thereof; and any such proceedings already commenced and pending in any such Court shall be stayed.

Act V of  
1898.

<sup>1</sup>Clauses (3a) and (3b) were inserted by s. 6(1) of the Bengal Alluvial Lands (Amendment) Act, 1934 (Ben. Act V of 1935).

<sup>2</sup>The original clause (6) was omitted by s. 6(2), *ibid.*

<sup>3</sup>The word "and" was omitted by s. 6(3) and clause (6a) was inserted by s. 6(4), *ibid.*

# Bengal Act VI of 1920

The Bengal Agricultural and Sanitary Improvement Act, 1920.

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## Bengal Act VI of 1920

### (The Bengal Agricultural and Sanitary Improvement Act 1920.)<sup>1</sup>

(13th October 1920.)

*An Act to consolidate and amend the law relating to the construction of drainage and other works for the improvement of the agricultural and sanitary conditions of certain areas in Bengal.*

WHEREAS it is expedient to consolidate and amend the law relating to the construction of drainage and other works for the improvement of the agricultural and sanitary conditions of certain areas in Bengal;

It is hereby enacted as follows:—

#### *Preliminary.*

1. (1) This Act may be called the Bengal Agricultural and Sanitary Improvement Act, 1920.

Short title,  
extent and  
commencement.

(2) It extends to the whole of Bengal, <sup>2</sup>[except Calcutta as defined in clause (11) of section 3 of the Calcutta Municipal Act, 1923], and any area which has been or may hereafter be constituted a municipality under the provisions of the Bengal Municipal Act, <sup>3</sup>[1932]:

Ben. Act  
III of  
1923.

Ben. Act  
XV of  
1932.

Provided that if any scheme under this Act jointly affects any area to which this Act extends and any municipal area, this Act shall be deemed to apply to such municipal area for the purposes of such scheme.

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1920. Pt. IV, p. 36; and for Proceedings in Council, see *ibid*, Pt. IVA, pp. 267-268 and 293-294 and 676-678 and 901-915.

<sup>2</sup>These words and figures were substituted for the words and figures "except the town of Calcutta as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

<sup>3</sup>This figure was substituted for the figure "1884," *ibid*.

(*Preliminary—Sec. 2.*)

(3) It shall come into force on such date<sup>1</sup> as the<sup>2</sup>[Provincial Government] may, by notification in the<sup>3</sup>[*Official Gazette*] direct.

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “Collector”—

(a) means the officer in charge of the revenue jurisdiction of the district within which the lands which form the subject of a scheme under this Act are situated, or, in the case of a scheme relating to lands lying in more than one district, any such officer or officers as may be selected by the Commissioner; and

(b) includes any officer appointed by the<sup>2</sup>[Provincial Government] by general or special order to discharge all or any of the functions of the Collector under this Act;

(2) the “cost” of a work includes—

(a) the total expenditure incurred by the Engineer for surveys, plans, estimates, valuations of a work, and incidental expenses connected therewith, whether antecedent or subsequent to the adoption of a scheme, and all expenses incurred in its execution;

(b) the estimated capitalized cost of the maintenance of the work;

(c) the total expenditure incurred by the Collector in connection with the scheme and work inclusive of any preliminary inquiry, compensation for and cost of any land taken or acquired for the purposes of this Act, the preparation or revision of any record-of-rights and the cost of apportionment and recovery;

(d) all amounts paid, or estimated as payable, as compensation for damage inflicted in carrying out any scheme or work under this Act; and

(e) interest on all recoverable deposits or advances made by the<sup>2</sup>[Provincial Government], or

<sup>1</sup>The Act came into force on the 1st December, 1920, see Notification No. 10367L.R., dated the 30th November, 1920, published in the *Calcutta Gazette*, 1920, Pt. I., p. 2230.

<sup>2</sup>These words were substituted for the words “Local Government” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>These words were substituted for the words “*Calcutta Gazette*,” *ibid.*

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[1920.]

(Preliminary.—Sec. 2.)

by a local authority, or any person, at such rates and from and to such dates as may be prescribed;

(3) “Engineer” means the District Engineer, or any Engineer, or other person specially appointed by the <sup>1</sup>[Provincial Government] in the case of major schemes, or by the Collector in the case of minor schemes, to discharge all or any of the functions of an Engineer under this Act;

(4) “landlord” means a person immediately under whom a tenant holds and includes a landlord in *khas* possession and also the <sup>2</sup>[Crown];

(5) “local area” means the portion of a district or districts to which a scheme under this Act relates, and any municipal area included within such scheme;

(6) “local authority” means any authority legally entitled to, entrusted by <sup>3</sup>[any Government] with, the control or management of a municipal, or local fund, and includes a Local Board constituted under the Bengal Local Self-Government Act of 1885;

Ben. Act  
III of  
1885.

(7) “major scheme” means a scheme—

- (i) in which the estimated cost of the work involved exceeds the prescribed amount, or
- (ii) in which more than one independent local authority is concerned, or
- (iii) which the Collector has certified should be treated, in such circumstances as may be prescribed, as a major scheme;

(8) “minor scheme” means any scheme other than a major scheme;

(9) “prescribed” means prescribed by rules under this Act;

(10) a “scheme” includes—

- (a) a survey and plans,
- (b) estimates of the cost of the work involved in such scheme;

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<sup>1</sup>See foot-note 2 on p. 36, *ante*.

<sup>2</sup>This word was substituted for the word “Government” by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>These words were substituted for the word “Government,” *ibid*.



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Improvement Act, 1920.*

[Sec. 34 vi]

*(Preliminary—Application for construction of works  
and procedure thereon.—Secs. 3-5.)*

- (c) a description or map of the local area, and
- (d) a report on the scheme;

(11) "tenant" means a person, whether resident or non-resident in the local area, who holds land or premises for any purposes whatsoever under another person, and is, or but for a special contract would be, liable to pay rent for that land or premises to that person, and includes any rent-free holder or temporary occupant of land or premises.

*Application for construction of works and procedure  
thereon.*

Procedure by  
the Collector  
on receipt  
of application  
for the  
undertaking  
of a work.

3. Whenever an application is received by the Collector from a local authority, or local authorities, or any person, or persons, recommending the undertaking of any work for the improvement, or for the prevention of the deterioration, of the agricultural or sanitary condition of any area, or if the Collector is himself of opinion that the undertaking of any such work is necessary, he shall cause such inquiries as he may deem necessary to be made and shall thereafter consult the local authority or local authorities concerned:

Provided that if after such inquiries, the Collector is satisfied that the proposed work will constitute a minor scheme which is mainly agricultural in character, reference to any local authority shall not be necessary but may be made if the Collector deems it desirable.

Order after  
inquiry.

4. (1) On completion of the necessary inquiries and after consultation, when necessary, with the local authority or local authorities, the Collector shall—

- (a) if he considers that the proposed work should not be done, pass an order to that effect; or
- (b) if he considers that the work proposed or modified should be done, take action as herein-after provided.

(2) An appeal shall lie to the Commissioner against every order by the Collector under clause (a) of sub-section (1) within thirty days of such order; and the decision of the Commissioner thereon shall be final.

Engineer to  
prepare scheme.

5. (1) Whenever it has been decided under section 4 to proceed with any work, the Collector shall direct the Engineer to prepare a scheme.

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Improvement Act, 1920.* 39

[1920.]

*(Application for construction of works and procedure thereon.—Secs. 6-10.)*

(2) When the Engineer has prepared any such scheme, he shall forward it to the Collector, who may, subject to such rules as may be prescribed in this behalf, make such modifications therein as he may deem necessary.

6. As soon as possible after the receipt of the scheme, the Collector shall publish a notice in the prescribed manner calling for objections or suggestions thereon by any local authorities, or person interested, within such time as may be prescribed.

Publication  
of scheme.

7. In the case of minor schemes, the Collector shall, as soon as possible after the expiry of the period fixed by the notice published under section 6, proceed in the prescribed manner to consider any objections or suggestions received in regard to the scheme.

Procedure  
in the case  
of minor  
schemes.

8. (1) The Collector may—

(a) reject the scheme referred to in section 7, or

(b) subject to such rules as may be prescribed in this behalf, accept it with such modifications as he may deem necessary, and shall determine, in the prescribed manner, the method in which, and the conditions subject to which, the cost of the work shall be financed and distributed.

Power of  
Collector  
to reject,  
or accept,  
scheme.

(2) An appeal shall lie to the Commissioner against every order by the Collector under sub-section (1) within thirty days of such order; and the decision of the Commissioner thereon shall be final.

9. In the case of major schemes, the Collector shall, as soon as possible after the receipt of the scheme, in addition to the publication required by section 6, refer it to the Commissioner, and the Commissioner shall forthwith appoint a committee, to be constituted in the prescribed manner, with the Collector as Chairman, representing the local authorities and the land-owning, cultivating and other interests of the area to which the scheme relates.

Procedure  
in the case  
of major  
schemes.  
Appointment  
of committee.

10. (1) On the expiry of the period fixed by the notice published under section 6, the committee shall proceed in the prescribed manner to consider any objections or suggestions in regard to the scheme received by the Collector, and may either accept the scheme with such modifications as it may deem necessary, or reject it.

Committee  
to consider  
major schemes.

40      *The Bengal Agricultural and Sanitary  
Improvement Act, 1920.*

[Bca. Act VI]

*(Application for construction of works and procedure  
thereon.—Secs. 11-14.)*

(2) Whenever a scheme has been accepted by the committee, it shall frame proposals, in the prescribed manner, regarding the method in which, and the conditions subject to which, the cost of the work shall be financed and distributed.

(3) An appeal shall lie to the <sup>1</sup>[Provincial Government] against every order by the committee under sub-section (1) or (2), within sixty days of such order.

(4) It shall be in the discretion of the <sup>1</sup>[Provincial Government], in the case of any scheme rejected by the committee under sub-section (1), of their own motion, to cancel or modify such order, and in such case the committee shall be required to frame proposals for financing and distributing the cost of the work as sanctioned by the <sup>1</sup>[Provincial Government], in the manner set out in sub-section (2).

Committee  
to forward  
scheme to  
provincial  
Government for  
consideration.

11. When proceedings under section 10 have been completed, the committee shall forward the scheme through the Commissioner to the <sup>1</sup>[Provincial Government], together with its proposals for financing and distributing the cost thereof.

Order by  
the Provincial  
Government  
on the  
scheme.

12. The <sup>1</sup>[Provincial Government] shall consider the scheme and proposals of the committee, together with any appeals which may have been received under section 10, sub-section (3), and may reject them, or accept them, with such modifications as they may consider necessary, and the order of the <sup>1</sup>[Provincial Government] thereon shall be final.

Engineer  
to execute  
scheme.

13. (1) As soon as possible after a scheme has been accepted under section 8, or section 12, the Collector shall direct the Engineer to execute the work.

(2) When the cost or part thereof is to be recovered from the landlords and tenants of the local area, the Collector may direct the preparation, or revision, as the case may be, of a record-of-rights of the local area in accordance with the provisions of Chapter X of the Bengal Tenancy Act, 1885, in so far as the same may be applicable.

VIII of  
1885.

Compulsory  
acquisition  
of land  
needed for  
the purposes  
of this Act.

14. The <sup>1</sup>[Provincial Government] may, at the request of the Collector, acquire, under the provisions of the Land Acquisition Act, 1894, any land required for the purpose of this Act.

I of 1894.

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<sup>1</sup>See foot-note 2 on p. 36, ante.

*The Bengal Agricultural and Sanitary  
Improvement Act, 1920.* 41

[1920.]

*(Application for construction of works and procedure thereon—Apportionment and recovery of costs.—Secs. 15-18.)*

I of 1894. "Land" in this section has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894.

15. <sup>1</sup> \* \* \* \* \* Advance of, or security for, cost of work.

(2) The cost of the work, or any portion thereof may <sup>2</sup> \* be advanced by the <sup>3</sup> [Provincial Government], or by any local authority, or any person, "[or security for such cost to the satisfaction of the Collector may be given by the local authority or person concerned.]

Ben. Act  
III of  
1885.

<sup>5</sup> (3) Notwithstanding anything contained in the Bengal Local Self-Government Act of 1885, it shall be lawful for a District Board to make any payment referred to in sub-section (2) from the district fund.

16. The Engineer, or any other person duly authorized to prepare a scheme, or to execute any work under this Act may himself, or by his agents and workmen; enter into or upon any land forming part of the local area, and carry out such work thereon as may be required. Power to enter into, or upon, land forming part of a local area.

*Apportionment and recovery of costs.*

17. On the completion of any work executed under this Act, the Engineer shall forthwith submit to the Collector a report accompanied by— Report by Engineer on completion of work.

(a) a statement of the items of the cost of the work referred to in sub-clauses (a), (b) and (d) of clause (2) of section 2; and

(b) a copy of the map prepared in the prescribed manner of the local area benefited by the improvement.

18. (1) On receipt of the report and other documents required by section 17, the Collector shall— Procedure on receipt of report.

(i) prepare a statement showing the total cost of the work;

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<sup>1</sup>Sub-section (1) was omitted by s. 2(i) of the Bengal Agricultural and Sanitary Improvement (Amendment) Act, 1932 (Ben. Act II of 1932).

<sup>2</sup>The words " in any case " were omitted by s. 2(ii)(a), *ibid.*

<sup>3</sup>See foot-note 2 on p. 36, *ante*.

<sup>4</sup>These words were added by s. 2(ii)(b), *ibid.*

<sup>5</sup>Sub-section (3) was added by s. 2(iii), *ibid.*

*(Apportionment and recovery of costs.—Secs. 19, 20.)*

(ii) distribute the said cost between—

- (a) the applicant,
- (b) the <sup>1</sup>[Provincial Government],
- (c) the local authorities concerned, and
- (d) the landlords and tenants collectively of the local area,

in the manner determined under section 8 or 10, and

(iii) apportion the share of such cost recoverable from the landlords or tenants, or both, or different classes thereof, according to such rates as may be determined in the prescribed manner, having regard, so far as practicable, to the degree of benefit derived, or estimated to be derived by the different areas and classes affected by the scheme.

(2) The Collector shall publish in the prescribed manner the statement and the particulars referred to in subsection (1), and a copy of the map submitted under clause (b) of section 17, after such revision as he may deem necessary, and shall send an abstract of the statement and particulars to each local authority concerned.

(3) Any person interested may appeal to the Commissioner within thirty days of such publication against the order of apportionment under clause (iii) of subsection (1), and the decision of the Commissioner thereon shall be final.

**19.** The Collector shall then determine the amount recoverable from each landlord or tenant and enter such amount in a detailed statement.

Collector  
to determine  
amount  
recoverable  
and prepare  
detailed  
statement.

Procedure  
on completion  
of detailed  
statement.

**20.** (1) On completion of the detailed statement referred to in section 19, the Collector shall publish a copy of the same in the prescribed manner.

(2) Any landlord, or tenant within the local area may, if he objects to the amount apportioned against him, appeal to the Commissioner within sixty days of the publication of the said statement on one or more of the following grounds, namely—

- (a) that he will not be benefited by the improvement,
- or

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<sup>1</sup>See footnote 2 on p. 36, ante.

1920.]

*(Apportionment and recovery of costs.—Miscellaneous.—  
Secs. 21-24.)*

(b) that there has been material error in regard to the degree of benefit derived, or estimated to be derived, from the improvement, or

(c) that he holds no land or premises, or has no interest in the land or premises in the local area.

(3) The order of the Commissioner on any appeal under sub-section (2) shall be final.

(4) The Collector may, on application or on his own motion, at any time, correct any mistakes in the calculation of the amount apportioned against any landlord or tenant.

21. After the disposal of appeals, if any, under section 20, sub-section (2), the Collector shall confirm the statement, with modifications, if any, and shall proceed in the prescribed manner to recover from the local authority, person, landlord or tenant concerned, the amount of the cost due from them.

Realization  
of costs due.

22. All arrears shall be recoverable in the prescribed manner as if they were arrears of land-revenue.

Recovery of  
arrears as  
arrears of  
land-revenue.

*Miscellaneous.*

23. Whenever any land, other than land taken or acquired for the purpose of this Act, or any right of fishery, right of drainage, right of the use of water, or other right of property, is injuriously affected by any act done, or any work executed under this Act, the person in whom such property, or right is vested may prefer a claim by petition to the Collector, for compensation:

Compensation  
for  
consequential  
damage.

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

24. (1) No claim under section 23 shall be entertained which is made later than three years after the completion of the work by which such right is injuriously affected.

Limitation  
to claim for  
compensation.

(2) For the purposes of this section, the date of the completion of the work shall be the date of the publication of the statement and particulars referred to in section 18, sub-section (2).

44 *The Bengal Agricultural and Sanitary  
Improvement Act, 1920.*

[*Ben. Act VI*

(*Miscellaneous.—Secs. 25-27.*)

Procedure for  
determining  
compensation.

**25.** When any such claim is made, proceedings shall be taken with a view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, so far as possible in accordance with the provisions of the Land Acquisition Act, 1894. I of 1894.

Matters to  
be considered  
in determining  
compensation.

**26.** In any such case which is referred by the Collector to the Court for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Court shall take into consideration—

*First*, the market value of the property or right injuriously affected at the time when the act was done or the work executed;

*Secondly*, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right;

*Thirdly*, the consequent diminution of the market value of the property or right injuriously affected when the act was done or the work executed;

*Fourthly*, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person :

Provided that the Court shall not take into consideration—

*First*, the degree of urgency which has led to the act or work being done or executed;

*Secondly*, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

Additional  
costs.

**27.** If, after the apportionment of the cost of the work as above provided, any expenses not included in such apportionment, shall be found to have been paid, or to have become payable, on account of the said work, whether as compensation, or otherwise, or if the amount recovered is insufficient to cover the cost of

[1920.]

*(Miscellaneous.—Secs. 28-31.)*

the scheme, the Collector may proceed to distribute, apportion and recover such additional cost, or deficiency; and the procedure set out in section 18 and the following section shall then apply.

28. All outlets and water-channels, natural or artificial, included in a scheme under this Act, whether reconstructed, cleared, altered, enlarged, excavated or cut under this Act or not, and the construction and maintenance of embankments and dams and works therein, or connected therewith, shall be subject to the law for the time being in force regulating the construction and maintenance of public embankments, rivers, channels and outlets.

Drainage works subject to laws relating to public embankments.

29. All lands which are taken, or acquired permanently under this Act for the purpose of a scheme, and any work constructed under this Act, and all water-channels, embankments and dams included within the scheme, whether reconstructed, cleared, altered, enlarged, excavated, or cut under this Act, or not, shall be vested in the Collector on behalf of His Majesty, or subject to such conditions as may be prescribed, in such local authority, or person as the <sup>1</sup>[Provincial Government], may, by general or special order, direct:

Lands and works how to be vested.

Provided that when the total cost of any work has been paid by any local authority, or person, the said lands and works, including any water-channels, embankments and dams, shall, subject to such conditions as may be prescribed, vest in such local authority, or person.

30. The local authority, or person in whom the lands, or works, water-channels, embankments, and dams, are vested shall be responsible for their maintenance, subject to such rules as may be prescribed:

Maintenance of works.

Provided that if the Collector is satisfied that such maintenance is being neglected, or that it is desirable, in the public interests, that such maintenance should be undertaken by the Government, he shall report, through the Commissioner, to the <sup>1</sup>[Provincial Government], who may direct that the duty of maintenance be undertaken by the <sup>1</sup>[Provincial Government].

31. All sums recovered as the estimated capital cost of the maintenance of works constructed under this Act shall be administered in the prescribed manner.

Administration of capitalized cost of maintenance.

<sup>1</sup>See foot-note 2 on p. 36, *ante*.



46 *The Bengal Agricultural and Sanitary  
Improvement Act, 1920.*

[Ben. Act VI

(Miscellaneous.—Secs. 32-35.)

**Penalty for  
constructing  
weirs, etc.,  
obstructing  
public drainage.**

**32.** (1) Any person who, without lawful authority, erects, or causes to be erected, any weir or other obstruction in any outlet or water-channel, or cultivates the bed of a water-channel, so as to obstruct natural drainage, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding two hundred rupees for every such offence.

(2) It shall be in the discretion of such Magistrate to direct any such offender to remove or pay for the entire cost of the removal of any such obstruction.

**Powers  
of the  
Commissioner,  
etc., in taking  
evidence.**

**33.** The Commissioner, the Collector, and a committee appointed under section 9 shall have all such powers as are conferred on a Civil Court by the Code of Civil Procedure, 1908, for the purpose of compelling the attendance of witnesses and the production of evidence, and for the purpose of examining witnesses in any inquiry, or appeal, as the case may be, which they may be empowered to make or entertain under this Act.

Act V of  
1908.

**Proceedings  
not to be  
invalidated by  
irregularities.**

**34.** No proceeding under this Act shall be defeated or invalidated by reason of any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission.

**Power  
of Provincial  
Government  
to make rules.**

**35.** (1) The <sup>1</sup>[Provincial Government] may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the <sup>1</sup>[Provincial Government] may make rules—

- (a) fixing the rate of interest to be paid, and the dates from and to which interest on all recoverable deposits, or advances are to be paid under sub-clause (e) of clause (2) of section 2;
- (b) fixing the amount of the costs of the work involved in a scheme in excess of which such scheme shall be deemed to be a major scheme, and prescribing the circumstances under which the Collector may certify a scheme to be a major scheme;
- (c) prescribing the manner of publication of a notice under section 6, a copy of the final statement of cost and the map under section

<sup>1</sup>See foot-note 2 on p. 36, ante.

*(Miscellaneous.—Sec. 35.)*

- 18, sub-section (2), and a copy of the detailed statement under section 20, sub-section (1), and prescribing the time within which objections and suggestions are to be made under section 6;
- (d) prescribing the manner in which the objections or suggestions referred to in section 7 and section 10, sub-section (1), shall be considered;
  - (e) prescribing the manner in which a scheme may be modified, if necessary, under section 5, sub-section (2), and clause (b) of sub-section (1) of section 8;
  - (f) determining the constitution of the committee referred to in section 9, and regulating the conduct of business at meetings of the committee;
  - (g) prescribing the manner and conditions for financing and distributing the cost of the work involved in a scheme under section 8, sub-section (1), and section 10, sub-section (2);
  - (h) prescribing the manner in which the Engineer shall prepare the map under clause (b) of section 17;
  - (i) prescribing the manner in which the Collector shall determine the rates at which the cost of a scheme shall be recoverable under clause (iii) of sub-section (1) of section 18, and the instalments, if any, by which such cost shall be recovered;
  - (j) prescribing the manner in which the Collector shall recover costs under section 21, and arrears under section 22;
  - (k) prescribing the conditions subject to which lands and works shall vest in a local authority, or person under section 29;
  - (l) for the maintenance of works under section 30;
  - (m) determining the manner in which the sums referred to in section 31 shall be administered;
  - (n) prescribing the forms of accounts, surveys, plans, maps, estimates, statements, and reports;
  - (o) regulating the powers and duties of any officer, or person under this Act.

48 *The Bengal Agricultural and Sanitary  
Improvement Act, 1880.*

[Ben. Act VI of 1880.]

(Miscellaneous.—Sec. 36.)

Repeal.

36. The following enactments are hereby repealed,  
namely:—

(a) the Bengal Drainage Act, 1880;

(b) the Bengal Drainage (Amendment) Act, 1902; Ben. Act  
VI of  
1880.

and

(c) the Bengal Sanitary Drainage Act, 1895: Ben. Act  
II of  
1902.

Provided that in the case of any scheme or work  
which has, at the commencement of this Act, been com-  
pleted under the Bengal Drainage Act, 1880, or the Ben-  
gal Sanitary Drainage Act, 1895, the costs of such  
scheme, or work shall be recoverable in accordance with  
the provisions of those Acts, as if this Act had not been  
passed: Ben. Act  
VIII of  
1895.

Provided also that any scheme or work of whatever  
nature commenced under either of the aforesaid Acts,  
and not completed before the commencement of this Act,  
shall, so far as it is not inconsistent, be deemed to have  
been commenced under this Act.

## Bengal Act VIII of 1920

### [The Indian Red Cross Society (Bengal Branch) Act, 1920.]<sup>1</sup>

(3rd November 1920.)

*An Act to constitute a Bengal Provincial Branch of the Indian Red Cross Society.*

WHEREAS it is expedient to provide for the future administration of various moneys, properties and gifts received in Bengal from the public during the late war, for the purpose of medical and other aid to sick and wounded and for comforts to troops and other purposes, and now held by or in trust for "The Lady Carmichael's Bengal Women's War Fund and 'Our Day' Fund (Bengal Branch)";

AND WHEREAS it is expedient to constitute a Bengal Provincial Branch of the Indian Red Cross Society to continue and extend the work carried on during the war by "The Lady Carmichael's Bengal Women's War Fund and 'Our Day' Fund (Bengal Branch)";

It is hereby enacted as follows:—

1. This Act may be called the Indian Red Cross Society (Bengal Branch), Act, 1920. Short title.

2. There shall be constituted in Bengal by this Act a society known as the Bengal Provincial Branch of the Indian Red Cross Society (hereinafter called the Society). The first members thereof shall be appointed either by name or by office, by the <sup>2</sup>[Provincial Government] of Bengal. They shall be in number not less than twenty-five or more than fifty. Constitution of Society.

3. The first members of the Society so appointed and all persons who may hereafter become members thereof, so long as they continue so to be, are hereby constituted a body corporate under the name of the Bengal Provincial Branch of the Indian Red Cross Society, and the said body shall have perpetual succession and a common seal with power to hold and acquire property, movable and immovable, and shall sue and be sued by the said name. Incorporation.

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1920 Pt. IV, pp. 83 and 84; and for Proceedings in Council, see *ibid*, Pt. IVA, pp. 678-679, and p. 802 and pp. 943-944.

<sup>2</sup>These words were substituted for the word "Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Page 50—

After section 6, insert the following sections, namely:—

“6A. As from the commencement of the Indian Red Cross Society (Bengal Branch) (Amendment) Ordinance, 1950 (elsewhere in this Act referred to as the Ordinance)—	Position after the commencement of the Indian Red Cross Society (Bengal Branch) (Amendment) Ordinance, 1950.
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- (a) section 6 shall cease to apply and the rules made thereunder shall stand cancelled;
- (b) the Managing Body, as constituted and existing or purported to be constituted and existing immediately before the commencement of the Ordinance shall stand dissolved and the term of office of the Chairman of the Managing Body, of the Treasurer of the Society and of every member of the Managing Body shall terminate;
- (c) sections 6B, 6C, 6D, 6E and 6F shall apply in place of section 6.

6B. The Managing Body shall consist of the following

Composition of the members, namely:—  
Managing Body.

- (a) the Vice-Chancellor of the University of Calcutta, or a person nominated by him;
- (b) the Administrative Officer appointed under the Corporation of Calcutta (Temporary Supersession) Act, 1948, so long as that Act is in force and thereafter the Mayor of the Corporation of Calcutta, or a person nominated by the Administrative Officer or the Mayor of the Corporation of Calcutta, as the case may be;
- (c) the Director of Health Services, West Bengal;
- (d) a representative of the State Government, not being the Director of Health Services, West Bengal, appointed by the State Government;
- (e) the President of the Bengal Chamber of Commerce;
- (f) the President of the Bengal National Chamber of Commerce;
- (g) the President of the Indian Chamber of Commerce;
- (h) the President of the Bharat Chamber of Commerce;
- (i) three members of the Society elected at a general meeting of the Society:

West Ben.  
Act VIII  
of 1948.

Provided that no member of the Society shall be qualified to vote for the election of the members of the Managing Body at such meeting unless he has continuously been a member of the Society for at least six months before the date of such meeting and unless his subscription is not in arrears:

Provided further that such election of members of the Managing Body shall, in the case of the first election after the commencement of the Ordinance,

**The Indian Red Cross Society (Bengal Branch) 51**  
**Act, 1920.**

of 1920.]

(Sec. 7.)

7. Notwithstanding anything contained in any appeal for subscriptions or gifts to or for the purposes of the said Funds, the Managing Body may in its discretion apply—

Purposes to which the funds of the Society may be applied.

- (a) either the corpus or the income or any part of such corpus or income of any property vested in it under clause (b) of section 5 for the relief of sickness, suffering or distress caused by the operation of war in India or in any other country in which Expeditionary Forces from India may from time to time be employed.

51—  
In sub-clauses (1) and (2) of clause (b) of section 7 for the words "His Majesty's Forces" substitute the words "the Armed Forces of the Union".  
(Instituted by Adaptation Order, 1950, paragraph 3 and the Eleventh Schedule.)

[No. 47, dated the 1st February, 1952.]

- (1) the care of sick and wounded of His Majesty's Forces, whether still on the active list or demobilized;
- (2) provision of comforts and assistance to members of His Majesty's Forces, whether on the active list or demobilized;
- (3) the care of those suffering from tuberculosis, having regard in the first place to soldiers and sailors, whether they have contracted the disease on active service or not;
- (4) work parties to provide the necessary garments, etc., for hospitals and health institutions in need of them;
- (5) home service ambulance work;
- (6) assistance required in all branches of nursing, health and welfare work, ancillary to any organizations which have or may come into being in India and which are recognized by the Society;
- (7) child welfare;
- (8) such other cognate objects as may from time to time be approved by the Society;
- (9) the expenses of management of the Society; and

At the end, insert the following Schedule, namely:—

**"THE SCHEDULE.**

[See section 6F(I).]

**Rules under sub-section (1) of section 6F of the Indian  
Red Cross Society (Bengal Branch) Act, 1920.**

**CHAPTER I.**

**INTRODUCTORY.**

1. These rules may be called the Rules of the Bengal Provincial Branch of the Indian Red Cross Society.
2. In these rules, unless the context requires otherwise—
  - (a) "the Act" means the Indian Red Cross Society (Bengal Branch) Act, 1920; Ben. Act VIII of 1920.
  - (b) "the chairman" means the Chairman of the Managing Body;
  - (d) Ordinary members.
4. A person shall be an Honorary Vice-President if he subscribes a sum of Rs. 10,000 or more to the funds of the Society. Honorary Vice-Presidents.
5. A person shall be a Patron if he subscribes a sum less than Rs. 10,000 but not less than Rs. 2,000 to the funds of the Society. Patrons.
6. A person shall be a Vice-Patron if he subscribes a sum less than Rs. 2,500 but not less than Rs. 500 to the funds of the Society. Vice-Patrons.
7. A person shall be an ordinary member if he signifies his intention to become a member and pays an annual subscription to the funds of the Society of Rs. 12 or a consolidated subscription of Rs. 150. Ordinary members.
8. The Managing Body may elect any person for services rendered to the Society to be a member of any grade referred to in clauses (a), (b), (c), or (d) of rule 3. Power to elect members.
9. A person who immediately before the commencement of the Ordinance was a Honorary Vice-President, a Patron, a Vice-Patron or a member of the Society shall continue to be a Honorary Vice-President, a Patron, a Vice-Patron or an ordinary member, as the case may be. Existing members to continue.
10. (1) A person shall be an associate if he signifies his intention to become an associate and pays an annual subscription of Rupee 1 or a consolidated subscription of Rs. 50 to the funds of the Society. Associates.  
(2) No associate shall be a member of the Society.  
(3) A person who was an associate immediately before the commencement of the Ordinance shall continue to be an associate.

# **Bengal Act II of 1922**

**(The Bengal Children Act, 1922.)**

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# Bengal Act II of 1922

## (The Bengal Children Act, 1922)<sup>1</sup>

(29th March 1922.)

*An Act to make further provision for the custody, trial and punishment of youthful offenders and for the protection of children and young persons.*

WHEREAS it is expedient to provide further for the custody, trial and punishment of youthful offenders and for the protection of children and young persons;

And whereas the previous sanction of the Governor General has been obtained, under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act;

It is hereby enacted as follows:—

5 & 6, Geo.  
V, c. 61;  
6 & 7, Geo.  
V, c. 37; 9  
& 10, Geo.  
V, c. 101.

### CHAPTER I.

#### PRELIMINARY.

1. (1) This Act may be called the Bengal Children Act, 1922.

Short title,  
commencement  
and local extent.

(2) It shall come into force <sup>2</sup>[in whole or in part] on such date as the <sup>3</sup>[Provincial Government] may, by notification in the <sup>4</sup>[*Official Gazette*], direct, <sup>5</sup>[and for this purpose different dates may be appointed for different provisions of this Act and for different parts of the area defined in sub-section (3).]

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1921, Pt. IV, p. 21; and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1921, Vol. III, pp. 151-156, and Vol. IV, p. 123; and also Vol. VII, No. I, 1922; pp. 22-107 and 133-162.

This Act shall, so far as regards the appellate and revisional jurisdiction conferred on the High Court in Calcutta be as valid as if this Act had been passed by the Indian Legislature, see the Madras, Bengal and Bombay Children (Supplementary) Act, 1925 (XXXV of 1925),

Page 55—In foot-note 2, line 1 for “by the” read Amend “by”

<sup>2</sup>These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>These words were substituted for the words “*Calcutta Gazette*,” *ibid.*

<sup>5</sup>These words were added by s. 2 of the Bengal Children (Amendment) Act, 1923 (Ben. Act V of 1923).

*(Chapter I.—Preliminary.—Secs. 2,3.)*

(3) Subject to the provisions of section 27, this Act extends in the first instance to the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866, the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866, the port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908, and the Municipality of Howrah, but the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], extend it to any other town or place in Bengal.

Ben. Act  
IV of 1866.Ben. Act  
II of 1866.XV of  
1908.

Repeal of Act  
VIII of 1897.

2. The Reformatory Schools Act, 1897, with the exception of section 15 thereof, shall be deemed to be repealed—

VIII of  
1897.

(a) in the area to which this Act extends in the first instance under the provisions of section 1, sub-section (3), from the date of the commencement of this Act, and

(b) in any other town or place to which this Act may hereafter be extended under section 1, sub-section (3), from the date of such extension.

**Definitions.**

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "child" means a person under the age of fourteen years, and when used in reference to a child sent to an industrial school it applies to that child during the whole period of detention, notwithstanding that the child attains the age of fourteen years before the expiration of that period;

(2) "guardian" in relation to a child, young person, or youthful offender, includes any person who, in the opinion of the Court having cognizance of any case in relation to the child, young person, or youthful offender, or in which the child, young person, or youthful offender is concerned, has for the time being the charge of or control over the child, young person, or youthful offender;

(3) "industrial school" means an industrial school established or certified by the <sup>1</sup>[Provincial Government] under section 6;

<sup>2</sup>(3a) "Juvenile Court" means a separate Court established under sub-section (1) of section 37, and includes a Court sitting in the manner provided by sub-section (2) of that section.

<sup>1</sup>See foot-note 3 on p. 55, ante.

<sup>2</sup>See foot-note 4 on p. 55, ante.

<sup>3</sup>Clause (3a) was inserted by s. 2 of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

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*(Chapter I.—Preliminary.—Secs. 4,5.)*

(4) "prescribed" means prescribed by rules under this Act;

(5) "reformatory school" means a reformatory school established or certified by the <sup>1</sup>[Provincial Government] under section 6;

(6) "young person" means a person who is fourteen years of age or upwards and under the age of sixteen years; and

(7) "youthful offender" means any person who has been convicted of an offence punishable with transportation or imprisonment, and who at the time of such conviction was under the age of sixteen years.

4. The powers conferred on Courts by this Act shall be exercised only by—

Jurisdiction.

(a) the High Court,

(b) a Court of Session,

(c) a Court of an Additional Sessions Judge and of an Assistant Sessions Judge,

<sup>2</sup>(d) a separate Court established under sub-section (1) of section 37,

(e) a District Magistrate,

(f) a Subdivisional Magistrate,

(g) a Presidency Magistrate,

(h) a Magistrate of the first class,

(i) any Magistrate of the second class specially empowered by the <sup>1</sup>[Provincial Government] to exercise all or any of such powers,

and may be exercised by such Courts whether the case comes before them originally or in appeal or revision.

5. (1) When any Magistrate not empowered to pass an order under this Act is of opinion that a child or young person brought before him or convicted by him is a proper person to be sent to a reformatory or industrial school or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion, and submit his proceedings and forward the child or young person to the nearest Juvenile Court or Court of a Magistrate having authority to exercise powers under this Act and having jurisdiction in the case.

Procedure when Magistrate is not empowered to pass an order under this Act.

(2) The Court to which the proceedings are submitted under sub-section (1) may make such further inquiry

<sup>1</sup>See foot-note 3 on p. 55, ante.

<sup>2</sup>Clause (d) was substituted for the original clause by s. 3 of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

(Chapter II.—Reformatory and Industrial Schools.—  
Secs. 6-8.)

(if any) as it may think fit and may make such order dealing with the case as such Court might have made if the child or young person had originally been brought before it.

## CHAPTER II.

### REFORMATORY AND INDUSTRIAL SCHOOLS.

#### Establishment and certification of schools.

6. (1) The <sup>1</sup>[Provincial Government] may establish and maintain reformatory and industrial schools for the reception of youthful offenders and children who may be sent there in pursuance of this Act.

(2) The <sup>1</sup>[Provincial Government], on the application of or with the consent of the managers of any reformatory or industrial school not established under sub-section (1), may certify that such reformatory or industrial school is fit for the reception of youthful offenders or children to be sent there in pursuance of this Act; and may pay to the managers of such school such contributions as the <sup>1</sup>[Provincial Government] may think fit for the maintenance thereof.

#### Management of schools.

7. (1) For the control and management of every reformatory or industrial school established under section 6, sub-section (1), a superintendent and a committee shall be appointed by the <sup>1</sup>[Provincial Government], and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(2) Every school certified under section 6, sub-section (2), shall be under the management of such persons as may be approved by the <sup>1</sup>[Provincial Government], and the persons so approved shall be deemed to be the managers of the school for the purposes of this Act.

(3) Where girls and boys are accommodated in any reformatory or industrial school, the accommodation provided for girls shall be in a separate building and compound.

#### Inspection of schools.

8. (1) The <sup>1</sup>[Provincial Government] may appoint a chief inspector of reformatory and industrial schools and so many inspectors and assistant inspectors as they think fit to assist the chief inspector; and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the <sup>1</sup>[Provincial Government] direct, but shall act under the direction of the chief inspector.

<sup>1</sup>See foot-note 3 on p. 55, ante.

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*(Chapter II.—Reformatory and Industrial Schools.—  
Secs. 9-12.)*

(2) Every reformatory and industrial school shall, at least once in every six months, be inspected by the chief inspector, or by an inspector or assistant inspector:

Provided that when any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall, when practicable, be conducted by a woman.

9. The chief inspector, or an inspector, or an assistant inspector authorized in that behalf by the chief inspector, may, at any time, enter and inspect any reformatory or industrial school in all its departments. Power of inspectors.

10. Any qualified medical practitioner empowered in this behalf by the '[Provincial Government]' may visit any reformatory or industrial school at any time, with or without notice to its managers or other person in charge thereof, in order to report to the chief inspector on the health of the inmates and the sanitary condition of the school: Medical inspection.

Provided that, in the case of a school for girls only, such practitioner shall, when practicable, be a woman.

11. The '[Provincial Government]', if dissatisfied with the condition, rules, management, or superintendence of a certified school, may, at any time, by notice served on the managers of the school, declare that the certificate of the school is withdrawn as from the time specified in the notice, and, at that time, the withdrawal of the certificate shall take effect, and the school shall cease to be a certified school: Power of Provincial Government to withdraw certificate.

Provided that the '[Provincial Government]' may, if they think fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of youthful offenders or children to the school for such time as may be specified in the notice or until the notice is revoked:

Provided also that before the issue of notice under this section or under the first proviso thereto a reasonable opportunity shall be given to the managers of the school to show cause why the certificate shall not be withdrawn or admission to the school shall not be prohibited, as the case may be.

12. The managers of a certified school, on giving six months' notice in writing to the '[Provincial Government]', through the chief inspector, of their intention Resignation of certificate by managers.

<sup>1</sup>See foot-note 3 on p. 55, ante.

*(Chapter II.—Reformatory and Industrial Schools.—  
Secs. 13-16.)*

so to do, may resign the certificate of the school, and, accordingly, at the expiration of six months from the date of the receipt of the notice by the chief inspector (unless before that time the notice is withdrawn), the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

**Effect of withdrawal or resignation of certificate.**

**13.** No youthful offender or child shall be received into a certified school in pursuance of this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate for the school, or after the date of the issue of a notice of resignation of the certificate; but the obligation of the managers of the school, mentioned in section 16, to teach, train, lodge, clothe and feed any youthful offenders, or children detained in the school at the respective dates aforesaid shall, except so far as the <sup>1</sup>[Provincial Government] otherwise direct, continue until the withdrawal or resignation of the certificate takes effect.

**Disposal of inmates when school ceases to be certified.**

**14.** When a school ceases to be a certified school, the youthful offenders or children detained therein shall, by order of the <sup>1</sup>[Provincial Government], be discharged absolutely or on such conditions as the <sup>1</sup>[Provincial Government] may impose or be transferred to some other reformatory or industrial school or auxiliary home in accordance with the provisions of this Act.

**Auxiliary homes.**

**15.** The <sup>1</sup>[Provincial Government] may establish auxiliary homes for the reception of any inmates or any classes of inmates of reformatory or industrial schools, or may certify any other such home established before or after the passing of this Act by any other persons, and the certificate may be withdrawn or resigned in like manner as a certificate of a reformatory or industrial school; and every such home shall, for such purposes as may be specified by the <sup>1</sup>[Provincial Government], be treated as part of the school or schools to which it is attached.

**Liabilities of managers.**

**16.** The managers of a certified school may decline to receive any youthful offender or child proposed to be sent to them in pursuance of this Act, but when they have once accepted any such offender or child, they shall be deemed to have undertaken to teach and train and, further, if the school is residential, to lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school takes effect:

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<sup>1</sup>See foot-note 3 on p. 55, ante.

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*(Chapter III.—Youthful offenders.—Secs. 17-19.)*

Provided that the <sup>1</sup>[Provincial Government] may, on an application made in that behalf by the managers of a certified school, arrange for the transfer of such offender or child to any other reformatory or industrial school.

CHAPTER III.

YOUTHFUL OFFENDERS.

**17.** When a person apparently under the age of sixteen years is arrested and cannot be brought forthwith before a Court, the officer in charge of the police-station to which such person is brought may in any case and shall, unless the charge is one of culpable homicide or any other offence punishable with death or transportation, release him on bail, with or without sureties:

*Bail of child or young person.*

Provided that when a girl apparently under the age of sixteen years is arrested, the officer in charge of a police-station who has made the arrest, or before whom the girl has been produced, shall release her at once if any person, who in his opinion is a sufficient surety, enters into a bond for such sum of money as the officer considers sufficient, to produce her before the Court and to appear in her stead, if required, at the police-station.

**18.** (1) When a person apparently under the age of sixteen years having been arrested is not released on bail as provided in section 17, the officer in charge of the police-station shall cause him to be detained in a place other than a police-station or jail in the prescribed manner, until he can be brought before a Court.

*Custody of child or young person not released on bail.*

(2) No police-officer shall, however, detain in custody any such person for a longer period than is reasonable under all the circumstances of the case; and such period shall not, in the absence of a special order of a Court, exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Court.

**19.** A Court, on remanding or committing for trial a child or young person who is not released on bail as provided in section 17, shall, instead of committing him to prison, order him to be detained in a place other than a police-station or jail in the prescribed manner, for the period for which he is remanded.

*Remand or committal to custody.*

<sup>1</sup>See foot-note 3 on p. 55, *ante*.



*(Chapter III.—Youthful offenders.—Secs. 20, 21.)*

**Attendance at Court of parent of child or young person charged with an offence, etc.**

**20.** (1) When a child or young person is charged with any offence, or when a child is brought before a Court on an application for an order to send him to an industrial school, his parent or guardian may, in any case, and shall, if he can be found and resides within a reasonable distance and the person so charged or brought before the Court is a child, be required to attend at the Court before which the case is heard, during all the stages of the proceedings, unless the Court is satisfied, that it would be unreasonable to require his attendance.

(2) When the child or young person is arrested, the officer in charge of the police-station to which he is brought shall forthwith inform the parent or guardian, if he can be found, of such arrest, and shall also cause him to be warned to attend at the Court before which the child or young person will appear.

(3) The parent or guardian, whose attendance is required under this section, shall be the parent or guardian having the actual possession and control of the child or young person:

Provided that if the parent or guardian is a person other than the father, the attendance of the father or, if the father is dead or cannot be found, the attendance of the nearest adult male relative may also be required.

(4) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a Court.

(5) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child or young person, if such mother or female guardian does not, according to the customs and manners of the country, appear in public, but any such person may appear before the Court by a pleader or agent.

**Restrictions on punishment of children and young persons.**

**21.** Notwithstanding anything to the contrary contained in any law, no child or young person shall be sentenced to death, transportation or imprisonment or committed to prison in default of payment of a fine or in default of furnishing security:

Provided that a young person may be sentenced to imprisonment or committed to prison as aforesaid when the Court certifies that he is of so unruly or so depraved a character that he is not a fit person to be sent to a reformatory school and that none of the other methods in which the case may legally be dealt with is suitable.

*(Chapter III.—Youthful offenders.—Sec. 22.)*

**MODE OF SENDING YOUTHFUL OFFENDERS TO REFORMATORY OR INDUSTRIAL SCHOOLS.**

**22.** (1) When a youthful offender, who in the opinion of the Court before which he is charged is twelve years of age or upwards, is convicted of an offence punishable with transportation or imprisonment, the Court may, in addition to or in lieu of sentencing him according to law to any other punishment, order that he be sent to a reformatory school:

Commitment of offenders between twelve and sixteen years of age to reformatory or industrial schools.

Provided that when the offender is ordered to be sent to a reformatory school he shall not in addition be sentenced to imprisonment.

(2) When a youthful offender of twelve years of age or upwards has been sentenced to transportation or imprisonment, the '[Provincial Government] may direct that, in lieu of undergoing or completing such sentence, he shall be sent to a reformatory school; and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in a reformatory school.

(3) When a youthful offender, who in the opinion of the Court before which he is charged is under twelve years of age, is convicted of an offence punishable with death, transportation or imprisonment, the Court may order that he be sent to an industrial school.

(4) When a youthful offender of the age of twelve or thirteen years, who has not previously been convicted, is convicted of an offence punishable with transportation or imprisonment, and the Court is satisfied that the youthful offender should be sent to an industrial school, but, having regard to the special circumstances of the case, should not be sent to a reformatory school, and is also satisfied that the character and antecedents of the youthful offender are such that he will not exercise an evil influence over the other inmates of an industrial school, the Court may order the youthful offender to be sent to an industrial school after previously ascertaining that the managers are willing to receive him:

Provided that the '[Provincial Government] may, on the application of the managers of the industrial school, by order, transfer the youthful offender to a reformatory school.

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<sup>1</sup>See foot-note 3 on p. 55, *ante*.

## (Chapter III.—Youthful offenders.—Secs. 23-25.)

(5) When a young person has been ordered by a Court to give security under section 106 or section 118 of the Code of Criminal Procedure, 1898, and has failed to do so, the Court which made the order may order such young person to be sent to a reformatory school. Act V of 1898.

**Period of detention.**

**23.** Every order, in pursuance of which a youthful offender or child is sent to a reformatory or industrial school, shall specify the time for which the youthful offender or child is to be detained in the school, being—

- (a) in the case of a youthful offender sent to a reformatory school, not less than two and not more than five years, but not in any case extending beyond the time when the youthful offender will, in the opinion of the Court, attain the age of eighteen years; and
- (b) in the case of a child sent to an industrial school, such time as to the Court may seem proper for the teaching and training of the child, but not in any case extending beyond the time when the child will, in the opinion of the Court, attain the age of sixteen years.

**OTHER WAYS OF DEALING WITH YOUTHFUL OFFENDERS.****Power to discharge youthful offender or to commit him to suitable custody.**

**24.** A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a reformatory or industrial school, order him to be—

- (a) discharged after due admonition, or
- (b) committed to the custody of his parent or guardian or any adult relative, or failing any such person, or if any such person is found unfit by the Court, then to the custody of any trustworthy and respectable person, or such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months,

and the Court may, in addition to such order, make an order that the youthful offender be placed under the supervision of a person to be named by the Court.

**Power to order parent to pay fine, etc.**

**25.** (1) When a child or young person is convicted of an offence punishable with fine and the Court is of opinion that the case would be best met by the

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*(Chapter III.—Youthful offenders.—Sec. 26.)*

imposition of a fine, whether with or without any other punishment, the Court may, in any case, and shall, if the offender is a child, order that the fine be paid by the parent or guardian of the child or young person, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

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(3) Any order directing that a parent or guardian shall pay a fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898.

(4) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

**26.** (1) When a child is convicted of an offence of so serious a nature that the Court is of opinion that no punishment which under the provisions of this Act it is authorized to inflict is sufficient, the Court shall order the offender to be kept in safe custody in such place or manner as it thinks fit, and shall report the case for the orders of the <sup>1</sup>[Provincial Government].

*Detention in the case of certain crimes committed by children.*

(2) Notwithstanding the provisions of section 21, the <sup>1</sup>[Provincial Government] may order any such child to be detained in such place and on such conditions as they think fit, and whilst so detained the child shall be deemed to be in legal custody:

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed:

Provided also that at any time during the period of such detention the <sup>1</sup>[Provincial Government] may, if they think fit, direct that in lieu of such detention the youthful offender be kept in a reformatory school until he has attained the age of eighteen.

<sup>1</sup>See foot-note 3 on p. 55, *ante*.

(Chapter IV.—Mode of sending neglected children to industrial schools.—Sec. 27.)

## CHAPTER IV.

### MODE OF SENDING NEGLECTED CHILDREN TO INDUSTRIAL SCHOOLS.

Children  
liable to be sent  
to industrial  
schools.

27. (1) In any area to which the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], direct that this section or any portion of it shall apply, a Court having jurisdiction under this Act—

- (i) upon receiving a petition in this behalf, or
- (ii) upon a police report, or
- (iii) upon its own knowledge or suspicion,

may, either by a summons to the parent or guardian of a child apparently under the age of fourteen years or by a warrant to be executed by a police-officer not below the rank of sub-inspector or by some other person authorized by the <sup>1</sup>[Provincial Government] in this behalf, order the production of such child on such a day as may be specified in the summons or warrant if the Court has reason to believe that the child—

- (a) lives by begging; or
- (b) is destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing transportation or imprisonment; or
- (c) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or
- (d) is under the care of a parent or guardian who habitually neglects or cruelly ill-treats the child; or
- (e) frequents the company of any reputed thief or prostitute; or
- (f) is living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child.

(2) In any such area, any person authorized by the <sup>1</sup>[Provincial Government] in this behalf may bring

<sup>1</sup>See foot-note 3 on p. 55, ante.

<sup>2</sup>See foot-note 4 on p. 55, ante.

**(Chapter IV.—Mode of sending neglected children to industrial schools.—Secs. 27.)**

before a Juvenile Court or Court of a Magistrate having jurisdiction under this Act any child apparently under the age of fourteen years who—

- (a) is found in any street or place of public resort begging or receiving alms (whether or not there is any pretence of singing, playing performing, offering anything for sale, or otherwise), or being in any such street or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place or abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing transportation or imprisonment; or
- (d) frequents the company of any reputed thief or prostitute; or
- (e) lives in houses of ill-fame, or
- (f) is subject to cruel treatment;

and the Court before which a child is brought as coming within one of those descriptions shall examine the information and record the substance of such examination, and shall, if it thinks that there are sufficient grounds for inquiring further, fix a date for such inquiry.

(3) On the date fixed for the production of the child under sub-section (1) or for the inquiry under sub-section (2), or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to an industrial school should not be passed and make any further inquiry it thinks fit.

(4) If, after inquiry, the Court is satisfied that it is expedient to send the child to an industrial school, it shall pass an order to that effect.

(5) If, after inquiry the Court is satisfied that the child has been living by begging at the instance or for the profit of any person who is a professional keeper of

(Chapter IV.—Mode of sending neglected children to industrial schools.—Secs. 28-29.)

begging children, then the Court may direct such person to appear before it and, after hearing him in his defence, may, in its discretion, direct him to pay towards the cost of the proceedings any amount not exceeding twenty-five rupees, and such cost shall be realizable under the provisions of the Code of Criminal Procedure, 1898, as if it were a fine.

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Power to  
commit child  
or young person  
to suitable  
custody.

28. (1) When under this Act a Court is empowered to order a child to be sent to an industrial school, the Court, in lieu of ordering him to be so sent, may make an order for the committal of the child to suitable custody in the prescribed manner, until he attains the age of sixteen years, or for any shorter period.

(2) Any person authorized by the <sup>1</sup>[Provincial Government] in this behalf may bring before a Juvenile Court or Court of a Magistrate having authority to exercise powers under this Act and having jurisdiction in the case any young person apparently of the age of fourteen or fifteen years so circumstanced, that if he were a child, he would come within one or other of the descriptions mentioned in section 27, and the Court, if satisfied, after inquiry in the manner prescribed by section 27, sub-sections (2) and (3), that it is expedient so to deal with him, may make an order for his committal to suitable custody in the prescribed manner, until he attains the age of sixteen years, or for any shorter period.

(3) The Court which makes an order committing a child or young person to suitable custody under this section may, in addition, order that the child or young person be placed under the supervision of a person to be named by the Court.

<sup>2</sup>(4) Notwithstanding anything contained elsewhere in this Act, no order shall be passed sending a child to an industrial school, unless the Court is satisfied that accommodation suitable for such child is available.

Power to Pro-  
vincial Govern-  
ment to restore  
child to parent  
or relative.

29. The <sup>1</sup>[Provincial Government], at the request of the Court or on the application of a parent or relative of the child, may make an order directing the restitution on such conditions as may be specified in the order of any child, who having been dealt with by a Court under section 27, sub-section (4), has either been sent to an industrial school or committed under section 28, to

<sup>1</sup>See foot-note 3 on p. 55, ante.

<sup>2</sup>Sub-section (4) was added by s. 3 of the Bengal Children (Amendment) Act, 1923 (Ben. Act V of 1923).

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(Chapter IV.—Mode of sending neglected children to industrial schools.—Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Secs. 30, 31.)

such parent or relative of the child as the<sup>1</sup> [Provincial Government] may select; and the order passed by the Court in respect of such child shall thereupon be deemed to be modified accordingly.

30. If it appears to a Court, on the complaint of any person, that a girl under the age of sixteen years is being treated with cruelty by her parent or guardian or that such girl, with the knowledge of her parent or guardian, is exposed to the risk of seduction or prostitution or living a life of prostitution, the Court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl. Care of girls.

## CHAPTER V.

### MAINTENANCE AND TREATMENT OF PERSONS IN REFORMATORY OR INDUSTRIAL SCHOOLS OR UNDER CUSTODY.

31. (1) The Court which makes an order for the detention of a youthful offender or child in a reformatory or industrial school, or for the committal of a child or young person to suitable custody under this Act, may order the parent or other person liable to maintain the youthful offender, young person or child to contribute to his maintenance, if able to do so, in the prescribed manner. Contribution of parent.

(2) The Court, before making an order under sub-section (1), shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender, young person or child, and shall record the evidence, if any, in the presence of the parent or such other person, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader.

(3) The persons liable to maintain a youthful offender, young person or child shall, for the purposes of sub-section (1), include, in the case of illegitimacy, his putative father against whom an order under section



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488 of the Code of Criminal Procedure, 1898, has already been passed, or who has been otherwise declared to be the putative father by any competent Court or authority: Act V of 1898.

Provided that where the youthful offender, young person or child is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the Court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the Court, and such sums shall be applied by him towards the maintenance of the youthful offender, young person or child.

(4) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

**Boarding out of children.**

**32.** The managers of an industrial school to which a child under the age of eight years is sent may, with the consent in writing of the chief inspector, board the child out with any suitable person until the child reaches the age of ten years, and thereafter for such longer period, with the consent in writing of the chief inspector, as the managers consider to be advisable in the interests of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed; and, when a child is so boarded out, he shall, nevertheless, be deemed, for the purposes of this Act, to be a child detained in the school, and the provisions of this Act shall apply accordingly, so far as possible.

**Placing out on license.**

**33.** (1) When a youthful offender or child is detained in a reformatory or industrial school, the managers of the school may, at any time, with the consent in writing, of the chief inspector, by license, permit the youthful offender or child, on such conditions as may be prescribed, to live with any trustworthy and respectable person named in the license willing to receive and take charge of him with a view to train him for some useful trade or calling.

(2) Any license so granted shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

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(3) The managers of the school may, at any time by order in writing, revoke any such license, and order the youthful offender or child to return to the school, and shall do so at the desire of the person to whom the youthful offender or child is licensed.

(4) If the youthful offender or child refuses or fails to return to the school, the managers of the school may, if necessary, arrest him, or cause him to be arrested, and may take him, or cause him to be taken, back to the school.

(5) The time during which a youthful offender or child is absent from a reformatory or industrial school in pursuance of a license under this section shall be deemed to be part of the time of his detention in the school:

Provided that, when a youthful offender or child has failed to return to the school on the license being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

34. (1) When a license has been revoked or forfeited and the youthful offender or child refuses or fails to return to the school, a Court, if satisfied by information on oath that there is reasonable ground for believing that his parent or guardian could produce the youthful offender or child, may issue a summons requiring the parent or guardian to attend at the Court on such a day as may be specified in the summons, and to produce the child, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act or any other law, be liable to a fine not exceeding twenty-five rupees.

Power to order parent to produce a youthful offender or child who refuses to return to a school.

Act V of 1898.

(2) Any order directing that a parent or guardian shall pay a fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898.

35. Whoever—

(a) knowingly assists or induces, directly or indirectly, a youthful offender or child detained in or placed out on license from a reformatory or industrial school to escape from the school or from any person with

Penalty for abetting escape of youthful offender or child.

*(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Sec. 36.)*

whom he is placed out on license; or any child or young person to escape from the person to whose custody he is committed under this Act; or

- (b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on license, or to the person to whose custody he is committed under this Act, a youthful offender, young person or child who has so escaped, or knowingly assists in so doing;

shall be liable to imprisonment for a term which may extend to two months or to a fine not exceeding two hundred rupees, or to both.

**Discharge and transfer.**

**36.** (1) The <sup>1</sup>[Provincial Government] may, at any time, order a youthful offender or a child to be discharged from a reformatory or industrial school either absolutely or on such conditions as the <sup>1</sup>[Provincial Government] approve.

(2) The <sup>1</sup>[Provincial Government] may order—

- (a) a youthful offender or child to be transferred from one reformatory school to another, or from one industrial school to another;
- (b) a youthful offender under the age of fourteen years detained in a reformatory school to be transferred to an industrial school;
- (c) a young person detained in an industrial school, who is found to be exercising an evil influence over the other inmates of the school or who is guilty of a serious breach of the rules of the school or of escaping from the school, to be transferred to a reformatory school:

Provided that the whole period of the detention of the youthful offender, young person or child shall not be increased by the transfer.

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<sup>1</sup>See foot-note 3 on p. 55, ante.

[1922.]

(Chapter VI.—Miscellaneous.—Secs. 37-38.)

CHAPTER VI.

MISCELLANEOUS.

Act V of  
1898.

37. (1) <sup>1</sup>[Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Provincial Government<sup>2</sup> may, by notification in the *Official Gazette*,<sup>3</sup> provide for the establishment for any district or any other area specified in the notification] of one or more separate Courts for the hearing of charges against children or young persons or of applications for orders or licenses relating to a child or young person at which the attendance of the child or young person is required.

Juvenile  
Courts.

(2) Where no such separate Court has been established, the Court before which a child or young person is brought shall, unless the child or young person is charged jointly with any other person not being a child or young person, whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the Court are held or on different days or at different times from those at which the ordinary sittings are held.

\* \* \* \* \*

37A. Any child or young person charged with an offence may, pending trial or on conviction, be detained in the prescribed manner in a place, whether in Calcutta or elsewhere, to be set apart by the <sup>2</sup>[Provincial Government] for the detention of children or young persons.

Detention of  
child or young  
person pending  
trial or on  
conviction.

38. (1) Whenever a person, whether charged with an offence or not, is brought before any criminal Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child or young person, the Court shall make due inquiry as to the age of that person and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, and shall record a finding thereon, stating his age as nearly as may be.

Presumption  
and  
determination  
of age.

<sup>1</sup>These words were substituted for the words "The Local Government may provide for the establishment for any district or other local area" by s. 4(1) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

<sup>2</sup>The words "Provincial Government" were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>The words "*Official Gazette*" were substituted for the words "*Calcutta Gazette*," *ibid.*

<sup>4</sup>Sub-section (3) was repealed by s. 4(2) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929.)

<sup>5</sup>Section 37A was inserted by s. 5, *ibid.*

## (Chapter VI.—Miscellaneous.—Secs. 39,40.)

(2) An order or judgment of the Court shall not be invalidated by any subsequent proof that the age of such person has not been correctly stated by the Court, and the age presumed or declared by the Court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person and, where it appears to the Court that the person so brought before it is of the age of sixteen years or upwards, the person shall for the purposes of this Act be deemed not to be a child or young person.

Provision as to  
religious  
persuasion.

39. (1) In determining the reformatory or industrial school to which a youthful offender or child is to be sent under this Act, the Court shall endeavour to ascertain the religious persuasion to which the youthful offender or child belongs and shall, if possible, select a school in which facilities are afforded for instruction in his religion, and shall pass an order to that effect.

(2) Where a child or young person is committed to suitable custody under this Act, the Court in determining the person to whose custody the child or young person shall be committed shall endeavour in like manner to ascertain the religion of the child or young person and shall, if possible, select a person of the same religion, or a person who gives such undertaking as seems to the Court sufficient that the child or young person shall be brought up in accordance with the religion of such child or young person, and shall pass an order to that effect.

(3) Where under section 32 or section 33 a child or a youthful offender is boarded out or is permitted by license to live with any other person, the manager of the school shall select for this purpose a person of the same religion as the child or youthful offender, or a person who gives a satisfactory undertaking that the child or the youthful offender shall be brought up in accordance with the religion of such child or youthful offender.

Penalty for  
falsely to  
child or young  
person.

40. If any person over the age of sixteen years, who has the custody, charge or care of any child or young person, assaults, ill-treats, neglects, abandons or exposes such child or young person, or causes such child or young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight or hearing or limb or organ of the body, and any mental derangement), that person shall be punishable with imprisonment for a term not exceeding two years or with fine not exceeding two hundred rupees, or with both.

[1922.]

*(Chapter VI.—Miscellaneous.—Secs. 41-45.)*

**41.** If any person having the custody, charge or care of a girl under the age of sixteen years causes or encourages or abets the seduction or prostitution of that girl, he shall be punishable with imprisonment for a term not exceeding two years.

Penalty for causing, encouraging or abetting seduction or prostitution of young girl.

**42.** If a pawn-broker takes an article in pawn from any child, whether offered by that child on his own behalf or on behalf of any other person, he shall be punishable with fine not exceeding one hundred rupees.

Penalty for taking pawn from a child.

**43.** Notwithstanding anything contained in any other law, any person to whose custody a child or young person is committed under the provisions of this Act shall, while the order is in force, have the like control over the child or young person as if he were his parent, and shall be responsible for his maintenance and protection, and the child or young person shall continue in his custody notwithstanding that he is claimed by his parent or any other person.

Authority of persons having custody of child or young person.

**44.** (1) A copy of the order or judgment, in pursuance of which a youthful offender, young person or child is committed to custody in a place of detention provided under this Act, shall be delivered with him to the person in charge of the place of detention, and shall be a sufficient authority for his detention in that place in accordance with the terms thereof.

Custody of youthful offenders, young persons and children in places of detention.

(2) Any such person shall during such detention and whilst being conveyed to and from the place of detention be deemed to be in legal custody, and, if he escapes, may be arrested without a warrant and be brought back to the place of detention where he was detained.

**45.** (1) The <sup>2</sup>[Provincial Government] may cause any institution for the reception of poor children or young persons supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of <sup>3</sup>[any Government], to be visited and inspected from time to time by persons appointed by the <sup>2</sup>[Provincial Government] for the purpose.

Inspection of institutions for poor children.

<sup>1</sup>Section 41 is repealed in the areas in which the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act VI of 1933) is in force.

<sup>2</sup>See foot-note 3 on p. 55, ante.

<sup>3</sup>These words were substituted for the words " the Government " by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

## (Chapter VI.—Miscellaneous.—Secs. 46-48.)

(2) Any person so appointed shall have power to enter the institution and to make a complete inspection thereof and of all papers, registers, and accounts relating thereto.

(3) Whoever obstructs any person appointed under sub-section (1) in the discharge of his duties, or refuses or wilfully neglects to furnish him with the necessary means of making any entry or inspection, shall be punishable with fine which may extend to fifty rupees.

Procedure in  
respect of  
bonds.

46. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. Act V of 1898.

Removal of  
disqualification  
attaching to  
convictions of  
offences.

47. Notwithstanding anything contained in any other law, the conviction of a child or young person shall not be regarded as a disqualification attaching to a conviction of an offence under such law.

Rules.

48. (1) The '[Provincial Government]' may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the '[Provincial Government]' may make rules—

- (a) for the establishment, certification and maintenance of reformatory and industrial schools and auxiliary homes;
- (b) for the inspection of reformatory and industrial schools and auxiliary homes and prescribing the powers and duties of the chief inspector, and other inspectors;
- (c) prescribing the powers and duties of the managers of reformatory and industrial schools;
- (d) regulating the choice of a school;
- (e) for the boarding out, licensing and supervision of children and young persons;
- (f) for the contribution by parents and other persons liable to maintain children and young persons;
- (g) regulating the disposal and after-care of the inmates of reformatory and industrial schools and for the appointment of visitors and their tenure of office;
- (h) for the management of reformatory and industrial schools and auxiliary homes;

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<sup>1</sup>See foot-note 3 on p. 55, ante.

[1922.]

(Chapter VI.—Miscellaneous.—Sec. 49.)

- (i) for the education and industrial and moral training of the inmates of reformatory and industrial schools and for the credit to them of a portion of the proceeds of their work;
- (j) for the conveyance of youthful offenders and children to reformatory and industrial schools;
- (k) prescribing visits to and communication with the inmates of reformatory and industrial schools;
- (l) for the grant of permission to the inmates of reformatory and industrial schools to absent themselves for short periods;
- (m) prescribing the punishment of offences committed by the inmates of reformatory and industrial schools;
- (n) prescribing the manner in which a child or young person may be committed to suitable custody and for the supervision of such children and young persons;
- (o) for the detention of children and young persons under arrest or remanded or committed for trial '[or on conviction]; and,
- (p) prescribing the procedure to be adopted in Juvenile Courts.

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(4) All rules made under this section shall be published in the '[Official Gazette]' and, on such publication, shall have the same effect as if enacted in this Act.

Act V of  
1898.

49. (1) '[Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an appeal from an order made by a Court under the provisions of this Act shall lie;]

- (a) if passed by a Magistrate other than a District Magistrate or a Presidency Magistrate, to the District Magistrate;

<sup>1</sup>These words were inserted by s. 6 of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

<sup>2</sup>Sub-section (3) was omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>See foot-note 4 on p. 55, ante.

<sup>4</sup>These words were substituted for the words "An appeal from an order made by a Court under sections 25, 27, 31 or 39 shall lie," by s. 7(1) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).



[Ben. Act II of 1922.]

## (Chapter VI.—Miscellaneous.—Sec. 50.)

- (b) if passed by a District Magistrate, to the Court of Sessions;
- (c) if passed by a Court of Session or Court of an Additional Sessions Judge or of an Assistant Sessions Judge or by a Presidency Magistrate, to the High Court.

<sup>1</sup>(1a) Notwithstanding anything contained in the said Code, or in sub-section (1), an appeal from an order made by a separate Court established under section 37, sub-section (1), shall lie to the District Magistrate within the local limits of whose jurisdiction such Juvenile Court is held or to the Chief Presidency Magistrate when such Court is held within the local limits of his jurisdiction.

(2) No appeal shall lie from any order passed in any such appeal.

**Revision.**

**50.** Any order passed under the provisions of this Act and not otherwise provided for may be revised by the High Court either on the report of a Sessions Judge or of a District Magistrate <sup>2</sup>[or of the Chief Presidency Magistrate], or on the application of a party interested, or on its own initiative.

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<sup>1</sup>Sub-section (1a) was inserted by s. 7 (2) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

<sup>2</sup>These words were inserted by s. 8, *ibid.*

## Bengal Act IV of 1922

[The Bengal Court-fees (Amendment) Act, 1922.]<sup>1</sup>

(29th March 1922.)

*An Act to amend the Court-fees Act, 1870, and the Presidency Small Cause Courts Act, 1882, with reference to the scale of court-fees in Bengal.*

VII of  
1870.  
XV of  
1882.

WHEREAS it is necessary to revise the scale of court-fees for Bengal, by amendment of the Court-fees Act, 1870, and the Presidency Small Cause Courts Act, 1882, in their application to Bengal, in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Court-fees (Amendment) Act, 1922.

Short title,  
extent and com-  
mencement.

(2) It extends to the whole of Bengal.

(3) It shall come into force on the first day of April, 1922.

### VOLUME IV.

2 of

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*Strike out sections 3 to 15, and insert the following note, namely:—*

(Repealed by Bengal Act XVI of 1946, section 3 and the Second schedule.)

[No. 4 dated the 22nd July, 1947.]

16. In section 71 of the Presidency Small Cause Courts Act, 1882,—

Amendment of  
section 71 of  
Act XV of  
1882.

(1) in clause (a) for the words “five hundred rupees,” the words “fifty rupees” shall be substituted;

(2) after clause (a) the following shall be inserted, namely:—

“(b) when the amount or value of the subject-matter exceeds fifty rupees, but does not exceed five hundred rupees—the sum of six rupees four

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1921, Pt. IV, p. 518; and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1922, Vol. VII, No. 1, pp. 286—339, and Vol. VII, No. 4, 1922, pp. 151—245.

[Ben. Act IV of 1922.]

(Sec. 17.)

annas and three annas in the rupee on the excess of such amount or value over fifty rupees;"

- (3) clause (b) shall be renumbered as clause (c) and in that clause as renumbered for the words "sixty-two rupees eight annas" the words "ninety rupees ten annas" shall be substituted, and after the words "one anna" the words "six pies" shall be inserted.

Exemption of certain probates, letters of administration and certificates.

17. Nothing in this Act shall apply to any probate, letters of administration or certificate in respect of which the fee payable under the law for the time being in force has been paid prior to the commencement of this Act, but which have not issued.

#### THE SCHEDULE.

Table of rates of ad valorem fees leviable on the institution of suits.

[Not printed here. Incorporated in Act VII of 1870.]

# **Bengal Act V of 1922**

## **The Bengal Amusements Tax Act, 1922.**

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1. Short title, extent and commencement.

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6. Sections 4 and 5 not to apply in certain cases.
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# Bengal Act V of 1922

## (The Bengal Amusements Tax Act, 1922).<sup>1</sup>

(29th March 1922.)

*An Act to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting.*

WHEREAS it is necessary to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting;

Preamble.

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Amusements Tax Act, 1922.

Short title, extent and commencement.

(2) It extends to the whole of Bengal.

(3) It shall come into force on the first day of April, 1922, in—

**Ben. Act  
III of 1899.**

(a) Calcutta, as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899<sup>2</sup>;

(b) (i) Fort William, excepting the portion thereof included within the ramparts of the Fort,

(ii) the Esplanade, and

(iii) that part of Hastings north of the south edge of Clyde Row and Strand Road to the river bank; and

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1922, Pt. IV, p. 10; and for Proceedings in Council, see the *Bengal Legislative Council Proceedings*, 1922, Vol. VII, No. 1, pp. 163—172 and 188—233, and 244—286; and Vol. VII, No. 4, pp. 264—319.

<sup>2</sup>Bengal Act III of 1899 has been repealed and re-enacted by the *Calcutta Municipal Act, 1923* (Ben. Act III of 1923).

(Chapter 1.—*Entertainments Tax*.—Sec. 2.)

(c) the Municipalities of Howrah, Cossipore, Chitpur, Maniktola, Garden Reach, Tollygunge, Dacca and Darjeeling, the Barrackpore Cantonment and the South Suburban Municipality.

(4) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], bring this Act or any portion thereof into force in such other areas in Bengal at such time as shall be specified in such notification :

## CHAPTER I.

### Entertainments Tax.

**Definitions.**

2. In this chapter, unless there is anything repugnant in the subject or context,—

(1) “admission” includes admission as a spectator or as one of an audience, and admission for

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In section 2, after clause (4), insert the following new clause, namely :—

“(4a) ‘entertainments tax’ means a tax levied under section 3.”

(Inserted by West Ben. Act XI of 1949, section 2.)

[No. 44, dated the 2nd August, 1949.]

persons are admitted for payment;

(5) “live-stock” includes animals of every description;

(6) “notification” means a notification published in the <sup>3</sup>[*Official Gazette*];

<sup>1</sup>These words were substituted for the words “Local Government” by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words “Calcutta Gazette,” *ibid.*

<sup>3</sup>The proviso was omitted by Sec. IV, *ibid.*

[1922.]

(Chapter 1.—Entertainments Tax.—Sec. 3.)

- (7) "payment for admission" includes any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required, and any payment for seats or other accommodation in a place of entertainment;
- (8) "proprietor" in relation to any entertainment includes any person responsible for the management thereof; and
- (9) "society" includes a company, institution, club or other association of persons by whatever name called.

3. (1) Except as otherwise expressly provided in this Act there shall be \* \* \* Tax on payments on to cents.

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- (vii) is one rupee eight annas or more but is less than one rupee twelve annas .. six annas,
- (viii) is one rupee twelve annas or more but is less than two ..

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Put an asterisk against sub-section (3) and insert the following footnote, namely:—

\*During the continuance in force of the Bengal Finance Act, 1945, the rate of entertainments tax prescribed in sub-section (3) of section 3 shall, in the case of payments for admission to any cinematograph exhibition, be deemed to be as if, for items (i) to (ix) of the scale of rates specified in the said sub-section, the following items had been substituted, namely,—

- "(i) is more than three annas but is not more than four annas .. half an anna,
- (ii) is more than four annas but is less than eight annas .. one anna,
- (iii) is eight annas or more but is less than twelve annas .. two annas,
- (iv) is twelve annas or more but is less than one rupee .. three annas,
- (v) is one rupee or more but is less than one rupee four annas .. four annas,
- (vi) is one rupee four annas or more but is less than one rupee eight annas .. five annas,

[Vide Bengal Act II of 1945, sections 1(3) and 2(1).]

[No. 36, dated the 10th July, 1945.]

rounded off, if it is not a multiple of an anna, to the next higher multiple of an anna,



(Chapter I.—Entertainments Tax. Sec. 3.)

- (ia) is more than four annas  
but is less than twelve annas .. one anna,
- (ii) is twelve annas or more  
but is less than one rupee eight annas .. two annas,
- (iii) is one rupee eight annas  
or more but is less than two rupees eight annas four annas,
- (iv) is two rupees eight annas  
or more but is less than three rupees eight annas .. eight annas.
- (v) is three rupees eight annas or more but is  
less than four rupees eight annas twelve annas,
- (vi) is four rupees eight annas or more but is  
less than six rupees eight annas one rupee,
- (vii) is six rupees eight annas or more but is less than  
nine rupees eight annas one rupee eight annas,
- (viii) is nine rupees eight annas or more but it  
is not more than ten rupees .. two rupees,
- (ix) is more than ten rupees,  
for the first ten rupees  
and for every ten rupees or part of ten rupees over ten rupees two rupees.

(4) The <sup>1</sup>[Provincial Government] may, on the application of a proprietor of any entertainment in respect of which the entertainments tax is payable under sub-section (1), allow the proprietor on such conditions as they may prescribe to pay the amount of the tax due by means of a consolidated payment of twenty *per centum* of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax.

<sup>1</sup>See foot-note 1 on p. 84, *ante*.

<sup>2</sup>Sub-section (5) was omitted by s. 2(4) of the Bengal Amusements Tax (Amendment) Act, 1935 (Ben. Act XIII of 1935).

of 1922.]

*(Chapter I.—Entertainments Tax.—Secs. 4-7.)*

4. No person shall be admitted for payment to any entertainment where the payment is subject to the enter- Admission to entertainment  
Page 87—

*In section 4,—*

- (1) *after* the word "person", *insert* the words "liable to pay an entertainments tax";
- (2) *omit* the words "for payment" and the words "where the payment is subject to the entertainments tax"; and
- (3) *after* the words "admission to the entertainment", *insert* the words "and in the case of cinematograph exhibition, also returns of admissions to seats or other accommodations without payment on free or complimentary passes or tickets".

(Inserted and omitted by West Ben. Act XI of 1949, section 4.)

[No. 44, dated the 2nd August, 1949.]

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*In section 5,—*

- (1) *after* the words "any person" *insert* the words "liable to pay entertainments tax"; and
- (2) *omit* the words "for payment".

ity, for  
payment of

(Inserted and omitted by West Ben. Act XI of 1949, section 5.)

[No. 44, dated the 2nd August, 1949.]

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*In* sub-section (1) of section 7, *after* the words "admitted for payment" *insert* the words "and in the case of a cinematograph exhibition, also in respect of each person admitted without payment on a free or complimentary pass or ticket".

ons 4 and 5  
so apply in  
in

(Inserted by West Ben. Act XI of 1949, section 6.)

[No. 44, dated the 2nd August, 1949.]

the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

ner of pay-  
t.

(2) The entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

<sup>1</sup>See foot-note 1 on p. 84, *ante*.

*(Chapter I.—Entertainments Tax.—Sec. 8.)*

(3) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission to any entertainment, or involving such right of admission without further payment or at a reduced charge, the entertainments tax shall be paid on the amount of the lump sum, but where the <sup>1</sup>[Provincial Government] are of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be charged on such an amount as appears to the <sup>1</sup>[Provincial Government] to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

**Exemptions.**

8. (1) The entertainments tax shall not be charged on payments for admission to any entertainment where the <sup>1</sup>[Provincial Government] are satisfied—

- (a) that the whole of the takings thereof are devoted to philanthropic, religious or charitable purposes without any charge on the takings for any expenses of the entertainment; or
- (b) that the entertainment is of a wholly educational character (any question on that point to be determined in the case of difference by the <sup>1</sup>[Provincial Government] in the Department of Education); or
- (c) that the entertainment is provided for partly educational or partly scientific purposes by a society, not conducted or established for profit; or
- (d) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of the industry of agriculture, or the manufacturing industry, or some branch thereof, or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof, for

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<sup>1</sup>See foot-note 1 on p. 84, *ante*.

of 1922.]

(Chapter I.—Entertainments Tax.—Secs. 9-11.)

promoting the interests of which the society exists or of materials, machinery, appliances, or foodstuffs, used in the production of those products, or of articles which are of material interest in connection with the questions relating to the public health, as the case may be.

(2) The <sup>1</sup>[Provincial Government] may, by general or special order, exempt any entertainment or class of entertainments from liability to the entertainments tax.

9. Where the <sup>1</sup>[Provincial Government] are satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds not more than twenty-five *per cent.* of the gross proceeds have been deducted on account of the expenses of the entertainment, they shall repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment.

Refunds in certain circumstances.

10. (1) Any sum due on account of the entertainments tax shall be recoverable by the <sup>1</sup>[Provincial Government] as a public demand.

Recoveries.

(2) Any fine imposed under this chapter shall be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of fines.

Act V of 1898.

11. (1) Any officer authorized by the <sup>1</sup>[Provincial Government] for the purpose may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable times, with a view to seeing whether the provisions of this chapter or any rules made thereunder are being complied with.

Inspection.

(2) If any person prevents or obstructs the entry of any officer so authorized, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorized under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Act XLV of 1860.

<sup>1</sup>See foot-note 1 on p. 84, *ante*.

*(Chapter I.—Entertainments Tax.—Sec. 12.)***Rules.**

**12.** (1) The <sup>1</sup>[Provincial Government] may make rules for securing the payment of the entertainments tax and generally for carrying into effect the provisions of this chapter, and in particular—

- (a) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;
- (b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon; and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;
- (c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances;
- (d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of section 3, subsection (4), are applied or in respect of which the arrangements approved by the <sup>1</sup>[Provincial Government] for furnishing returns are made under section 4;
- (e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this chapter or under the rules made thereunder;
- (f) for the keeping of accounts of all stamps used under this chapter; and
- (g) for the presentation and disposal of applications for exemption from payment of the entertainments tax, or for the refund thereof, made under the provisions of this chapter.

(2) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

<sup>1</sup>See foot-note 1 on p. 84, *ante*.

of 1922.]

*(Chapter I.—Entertainments Tax.—Chapter II.—Taxes on certain forms of betting.—Secs. 13, 14.)*

13. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], delegate all or any of their powers under this chapter, except those conferred upon them by sub-section (4) of section 1, by section 12, and by this section, to any person or to any authority subordinate to the <sup>1</sup>[Provincial Government].

Power to Provincial Government to delegate certain powers.

## CHAPTER II.

### Taxes on certain forms of betting.

14. In this chapter—

Definitions.

(1) “backer” includes any person with whom a licensed bookmaker bets;

(2) “bet” includes “wager” and “betting” includes wagering;

(3) “licensed bookmaker” means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a license or permit issued by any racing club or by the stewards thereof to enable him to carry on his business or vocation under the provisions of the Bengal Public Gambling (Amendment) Act, 1913, as specified in the license or permit;

Ben. Act  
IV of 1913.

(4) “prescribed” means prescribed by this chapter or by the rules made thereunder;

(5) “racing club” includes a club, association, society or body of persons corporate or incorporate—

(a) formed for the purpose of promoting horse-racing or pony-racing or for holding race-meetings; or

(b) conducting or controlling such meetings;

(6) “totalisator” means a totalisator, in an enclosure which the stewards controlling a race-meeting have set apart in accordance with the Bengal Public Gambling (Amendment) Act, 1913, and includes any instrument, machine, or contrivance known as the totalisator, or any other instrument, machine, or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles.

<sup>1</sup>See foot-note 1 on p. 84, *ante*.

<sup>2</sup>See foot-note 2 on p. 84, *ante*.

Put an asterisk against sections 15 and 18 each, and insert the following foot-note, namely:—

\*During the continuance in force of the Bengal Finance Act, 1945—  
in section 15—

(a) the words and figures “as from the second day of April, 1922” shall be deemed to be omitted, and

(b) for the words “four per cent.” in both places where they occur, the words “ten per cent.” shall be deemed to be substituted,

and the totalisator tax imposed under the said section 15 shall be charged, levied, and paid to the Provincial Government accordingly; and  
in section 18—

(a) the words and figures “as from the second day of April, 1922” shall be deemed to be omitted, and

(b) for the words “four per cent.” the words “ten per cent.” shall be deemed to be substituted,

and the betting tax imposed under the said section 18 shall be charged, levied, and paid to the Provincial Government accordingly.

[Vide Bengal Act II of 1945, sections 1(3), 2(2) and 2(3).]

[No. 36, dated the 10th July, 1945.]

Bengal Act V of 1943, section 5, and notification No. 10F.T., dated the 15th April, 1943, published in the Calcutta Gazette, Extraordinary, of the 19th April, 1943.)

[No. 31, dated the 22nd May 1943.]

any such accounts shall, when required in writing by an officer empowered in this behalf by the [Provincial Government], permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of them.

Betting tax

18. (1) There shall as from the second day of April, 1922, be charged, levied and paid to the [Provincial Government] out of all

Page 92—

Put the following sign †† before section 18 and insert the following footnote after the footnote commencing with †, namely:—

††During the period ending the 31st March, 1949, in section 18,—

(a) the words and figures “as from the second day of April, 1922” shall be deemed to be omitted, and

(b) for the words “four per cent.” the words “twenty per cent.” shall be deemed to be substituted,

and the betting tax imposed under the said section 18 shall be charged, levied, and paid to the Provincial Government accordingly.

[Omitted and substituted by West Bengal Act X of 1948, section 2(3).]

[No. 43, dated the 5th June, 1949.]

\*See foot-note 1 on p. 84, ante.

Ben. Act  
IV of 1913.

[1922.]

*(Chapter II.—Taxes on certain forms of betting.—  
Secs. 19-22.)*

case of credit bets at such time as may be prescribed, and shall be deemed to have been paid by the backer on account of the tax, and shall be retained by the licensed bookmaker on behalf <sup>1</sup>[of the Provincial Government.]

19. All sums retained on account of the betting tax shall be made over by the licensed bookmaker, by whom they have been retained, to the prescribed officer at such times and in such manner as may be prescribed. Procedure for making over betting tax to Government.

20. (1) The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them to carry on the business or vocation of a book-maker at that meeting. Accounts of betting tax.

(2) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid by them to backers in satisfaction of bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by the <sup>2</sup>[Provincial Government], permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of such accounts.

21. (1) The totalisator tax payable under section 15 shall be recoverable as a public demand from the racing club conducting the meeting, and any portion of such tax which is not so recovered shall also be recoverable as a public demand from the stewards of the race-meeting jointly and severally. Methods of recovery of totalisator tax and betting tax.

(2) All monies which a licensed bookmaker is liable to make over to the prescribed officer under section 19 shall be recoverable from the licensed bookmaker as a public demand.

22. The <sup>2</sup>[Provincial Government] may make rules for securing the payment of the totalisator tax and the betting tax, the production and inspection of accounts kept under this chapter and generally for carrying into effect the provisions of this chapter, and for dealing with such matters as are therein directed to be prescribed. Rules.

<sup>1</sup>See foot-note 2 on p. 92, *ante*.

<sup>2</sup>See foot-note 1 on p. 84, *ante*.



**94      The Bengal Amusements Tax Act, 1922.**

[Ben. Act V of 1922.]

(Chapter II.—Taxes on certain forms of betting.—  
Sec. 23.)

Amendment of  
definition of  
gaming.

**23.** In the definition of “gaming” in—

- (i) section 59 of the Howrah Offences Act, XXI of 1857,
- (ii) section 3 of the Calcutta Police Act, Ben. Act IV of 1886, and
- (iii) section 1 of the Bengal Public Gambling Act, 1867, Ben. Act II of 1867.

as amended by section 2 of the Bengal Public Gambling (Amendment) Act, 1913,— Ben. Act IV of 1913.

- (a) the word “and” in clause (a) shall be omitted, and
- (b) after clause (b) the following shall be inserted, namely:—  
“and

- (c) (i) with a licensed bookmaker, or
- (ii) by means of a totalisator

as defined in section 14 of the Bengal Amusements Tax Act, 1922.”

*Strike out* Bengal Act VI of 1922, and *insert* the following note,  
namely:—

(Repealed by Bengal Act XVI of 1946, section 3 and the Second  
Schedule.)

[No. 41, dated the 22nd July, 1947.]

*An Act further to amend the Court-fees Act, 1870, with  
reference to the scale of Court-fees in Bengal.*

VII of  
1870.

WHEREAS it is necessary further to amend the  
Court-fees Act, 1870, in its application to Bengal in the  
manner hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Court-  
fees (Amendment No. II) Act, 1922. Short title and  
extent.

(2) It extends to the whole of Bengal.

2, 3. [Amendments incorporated in Act VII of  
1870.]

4. The amendments set forth in sections 2 and 3 shall  
be deemed to have been made with effect from the com-  
mencement of the Bengal Court-fees (Amendment) Act,  
1922. Date of effect  
of amendments.

Ben. Act  
IV of 1922.

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*,  
1922, Pt. IV, p. 103; and for Proceedings in Council, see the Bengal  
Legislative Council Proceedings, 1922, Vol. VIII, pp. 86-87.



# Bengal Act I of 1923

(The Goondas Act, 1923.)<sup>1</sup>

(28th February 1923.)

*An Act to provide for the control of certain goondas residing in, or frequenting Calcutta or the neighbourhood of Calcutta, and for their removal elsewhere.*

WHEREAS it is expedient to provide for the control of certain goondas within Calcutta and the neighbourhood of Calcutta and to provide for their removal elsewhere in certain circumstances;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

5 & 6, Geo.  
V, c. 61:  
6 & 7, Geo.  
V, c. 37;  
9 & 10,  
Geo.V, c.  
101.

It is hereby enacted as follows:—

1. (1) This Act may be called the Goondas Act, 1923. Short title and local extent.

(2) It extends to the whole of Bengal.

2. In this Act—

Definitions.

(1) "Bengal" means the Presidency of Bengal, as constituted on the first day of April, 1912<sup>2</sup>;

(2) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866, and the Port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908;

(3) "Commissioner of Police" means the officer vested with the administration of police in Calcutta under the Calcutta Police Act, 1866, the Calcutta Suburban Police Act, 1866, the Calcutta Port Act, 1890, and any Act amending any of these Acts;

Ben. Act  
IV of 1866.

Ben. Act II  
of 1866.

XV of  
1908.

Ben Act  
III of 1890.

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1922, Pt. IV, p. 114; and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1922, Vol. X, pp. 103—108, and 406—440, and see also Vol. XI, No. 1, 1923, pp. 375—427, and pp. 433—468.

<sup>2</sup>See Schedule A to the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (Act VII of 1912).

## (Sec. 3.)

- (4) "goonda" includes a hooligan or other rough;
- (5) "neighbourhood of Calcutta" means the areas included in—
- (a) the Police stations of Baranagore, Nawapara, Barrackpore, Dum-Dum, Tollyganj, Behala, Metiabruz, Maheshtolla, Bhangore, Tittaghar, Khardah and Budge-Budge in the district of the 24-Parganas;
  - (b) the police-stations of Howrah, Sibpore, Malipanchghora, Golabaree, Lilooah, Bally and Bantra in the district of Howrah; and
  - (c) any other area which is included within the districts of the 24-Parganas, Howrah or Hooghly, and which the <sup>1</sup>[Provincial Government] by notification in the <sup>2</sup>[Official Gazette] may include within this definition;
- (6) "Presidency area" means Calcutta together with that portion of the district of the 24-Parganas which is not included in Calcutta as defined in this section, and the districts of Howrah and Hooghly.

Report by  
Commissioner of  
Police or District  
Magistrate.

3. (1) Whenever it shall appear to the Commissioner of Police, that any person—

- (a) is a goonda, or a member of a gang or body of goondas, and
- (b) is residing within or habitually visiting or frequenting Calcutta,

and that such person or that such gang or body is committing or has committed or is about to commit or is assisting or abetting the commission of—

- (i) a non-bailable offence against person or property, or
- (ii) the offence of criminal intimidation, or
- (iii) an offence involving a breach of the peace,

<sup>1</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "Calcutta Gazette", *ibid.*

of 1923.]

(Sec. 4.)

so as to be a danger to, or cause or to be likely to cause, alarm to, the inhabitants or to any section of the inhabitants of Calcutta, the Commissioner of Police shall make a report to the <sup>1</sup>[Provincial Government] with a recommendation that such person or gang or body of persons be dealt with under the provisions of this Act.

(2) The same powers and duties as are conferred and imposed by sub-section (1) on the Commissioner of Police in respect of persons or gangs or bodies of persons residing in, or habitually frequenting Calcutta, are conferred and imposed on the District Magistrate having jurisdiction in any local area, which is outside Calcutta but is included in the neighbourhood of Calcutta, in respect of all persons or gangs or bodies of persons residing within or habitually visiting or frequenting such area, who appear to such District Magistrate to be goondas or members of a gang of goondas and to be committing, or to have committed or to be about to commit, or to be assisting or abetting the commission of, any of the offences set forth in clauses (i), (ii) or (iii) of sub-section (1) so as to be a danger to, or to cause or to be likely to cause, alarm to, the inhabitants or to any section of the inhabitants of such area.

4. (1) On receipt of the report of the Commissioner of Police or of the District Magistrate, as the case may be, the <sup>1</sup>[Provincial Government] may make an order for the issue of a warrant for the arrest of the person against whom the report has been made.

Issue of  
warrant on  
receipt of report.

(2) The warrant shall be in such a form as shall be prescribed by the <sup>1</sup>[Provincial Government] by notification in the <sup>2</sup>[Official Gazette] and shall be issued by a Secretary to the <sup>1</sup>[Provincial Government] and shall contain a statement of the heads of the charges made against such person in the report, and shall further require such person to submit by petition to the advising Judges appointed under sub-section (1) of section 5 by such date as may be specified in the warrant any representation that he may desire to make.

(3) The officer by whom such warrant is issued shall have—

- (i) for the enforcement of the attendance of the person, against whom the warrant is issued, at such place and at such time or times as

<sup>1</sup>See foot-note 1 on p. 98, ante.

<sup>2</sup>See foot-note 2 on p. 98, ante.

## (Sec. 5.)

may be specified therein (and thereafter as such officer may direct) in order to communicate to such person the final order of the <sup>1</sup>[Provincial Government] made under section 6, and

- (ii) for the forfeiture, under section 514 of the Code of Criminal Procedure, 1898, of any bond, executed for the attendance of such person at such place and at such time or times,

Act V of  
1898.

all the powers of a Presidency Magistrate under the Code of Criminal Procedure, 1898; and the warrant shall for the purposes set forth in clauses (i) and (ii) be deemed to be a warrant issued by a Presidency Magistrate, for the arrest of such person to answer a charge in respect of a bailable offence committed by him within the jurisdiction of such Magistrate, and such person, in default of sufficient security being furnished, may, unless such officer otherwise directs, be detained in custody until the final order of the <sup>1</sup>[Provincial Government] under section 6 is communicated to him.

Provincial  
Government  
to place  
report before  
advising Judges.

5. (1) After issue of the warrant under section 4, the <sup>1</sup>[Provincial Government] shall forthwith cause the report of the Commissioner of Police or of the District Magistrate, as the case may be, with all material facts and circumstances in their possession relevant to the same to be placed before two advising Judges, of whom one shall be a District and Sessions Judge of Alipur and the other a District and Sessions Judge who has served as such for a period of not less than five years.

(2) The advising Judges shall consider in camera the report and the other facts and circumstances.

## VOLUME IV.

Page 100—

In sub-section (1) of section 5, for the words "a District and Sessions Judge of Alipur and the other a District and Sessions Judge who has served as such for a period of not less than five years" substitute the following, namely:—

"the District and Sessions Judge, or an Additional District and Sessions Judge, of 24 Parganas and the other shall be—

(a) a District and Sessions Judge; or

(b) an Additional District and Sessions Judge; or

[1923.]

(Sec. 6.)

Provided that—

- (a) nothing in this section shall be deemed to entitle the person whose case is before the advising Judges to appear or be represented before them by pleader, nor shall the <sup>1</sup>[Provincial Government] be so entitled,
- (b) the advising Judges shall not disclose to the person in question any fact the communication of which might endanger the safety of any individual, and
- (c) the advising Judges shall not be bound to observe the rules of evidence and shall not permit the putting of any question which may endanger the safety of any individual.

(3) Any statement made to the advising Judges by any person other than the person whose case is before them shall be deemed to be information given to a public servant within the meaning of section 182 of the Indian Penal Code, and the advising Judges shall for the purpose of securing the attendance of any person under the provisions of sub-section (2) have all the powers of a District Magistrate under the Code of Criminal Procedure, 1898.

Act XLV  
of 1860.

Act V of  
1898.

(4) When the advising Judges have reached their conclusions, they shall report the same in writing to the <sup>1</sup>[Provincial Government].

(5) If the person whose case is under their consideration claims, when submitting his representation or when appearing before the advising Judges, that both he and his father were born in Bengal or that he is a member of a family which has definitely settled in Bengal and is himself so settled, the advising Judges shall give him an opportunity of establishing his claim, and shall also give to the Commissioner of Police or the District Magistrate, as the case may be, an opportunity of rebutting the same, and at the time of submission of their report to the <sup>1</sup>[Provincial Government] shall record their opinion as to whether such person has established his claim.

6. (1) On receipt of the report of the advising Judges the <sup>1</sup>[Provincial Government], if satisfied that the person against whom the report has been made should be removed elsewhere, may by an order reciting

Order of  
removal by  
Provincial  
Government.

<sup>1</sup>See foot-note 1 on p. 98, ante.



## (Sec. 7.)

the conclusions of the advising Judges, as reported by those Judges—

- (a) direct him to leave Bengal within such time by such route or routes, and for such period as may be stated in the order, or
- (b) where the <sup>1</sup>[Provincial Government] are satisfied that both he and his father were born in Bengal, or that he is a member of a family which has definitely settled in Bengal and is himself so settled, direct him to leave the Presidency area within such time, by such route and for such period as may be stated in the order, and may in that case further order that he shall during the same period notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence to the officer appointed by the <sup>1</sup>[Provincial Government] in this behalf.

(2) The order of the <sup>1</sup>[Provincial Government] under sub-section (1) shall be final, and shall not be called in question in any subsequent proceeding under section 9 or section 10.

#### Evasion of orders.

7. Where any person on whom a warrant has been served under section

- (i) fails to attend at the place and at the time or times specified in the warrant and thereafter when required in order to receive the order of the <sup>1</sup>[Provincial Government] under section 6, or
- (ii) prior to the issue of that order, leaves Bengal or the Presidency area, as the case may be,

the <sup>1</sup>[Provincial Government] may issue the order under section 6 in the absence of that person by publishing the same in the <sup>2</sup>[Official Gazette], and such person shall be deemed to have absconded in order to evade that order:

Provided that the <sup>1</sup>[Provincial Government] may condone a failure to attend under clause (i), on reasons for such non-attendance being furnished to their satisfaction, and in that case such person shall not be deemed to have absconded in order to evade the order.

<sup>1</sup>See foot-note 1 on p. 98, ante.

<sup>2</sup>See foot-note 2 on p. 98, ante.

of 1923.]

(Secs. 8-10.)

8. Every person, in respect of whom an order has been made under section 6 shall, if so directed by the Commissioner of Police or the District Magistrate, as the case may be,—

Identification order.

- (i) present himself to be photographed;
- (ii) allow his finger impressions to be recorded;
- (iii) if literate, furnish such officer with specimens of his handwriting and signature; and
- (iv) attend at such times and places as the Commissioner of Police or the District Magistrate, as the case may be, may direct for all or any of the aforesaid purposes.

9. When any person, against whom an order has been made under section 6, fails to comply with such order within the time specified therein, or after complying with the said order returns to, or after evading the said order returns to or remains in, any place within Bengal or the Presidency area, as the case may be, before the expiry of the period stated in the order, or fails to give to the officer appointed to receive it the information in regard to residence or absence set forth in section 6, such person may be arrested without a warrant by a police-officer and shall be liable, on conviction before a Presidency Magistrate, or a Magistrate of the first class, to be punished with rigorous imprisonment for a term which may extend to one year.

Penalty for breach of order under section 6.

10. (1) Any person who fails to comply with, or attempts to evade, any direction given in accordance with the provisions of section 8, or who absconds in order to evade any order made under section 6, shall be liable to be arrested without a warrant and shall, on conviction before a Presidency Magistrate, or a Magistrate of the first class, be liable to be punished with imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

Penalty for breach of order under section 8 or for absconding to evade an order under section 6.

(2) An offence under this section and under section 9 shall be deemed to be a non-bailable offence.



# **Bengal Act III of 1923**

**(The Calcutta Municipal Act, 1923.)**

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OTHER MEANS OF SERVICE NOT AVAILABLE.**

# Bengal Act III of 1923

## (The Calcutta Municipal Act, 1923.)<sup>1</sup>

(18th July 1923.)

*An Act to amend and consolidate the law relating to the Municipal Affairs of the Town and Suburbs of Calcutta.*

WHEREAS it is expedient to amend and consolidate, Preamble.  
in the manner hereinafter appearing, the law relating to the municipal affairs of the town and suburbs of Calcutta;

AND WHEREAS the previous sanction of the Governor General required by section 80A, sub-section (3), of the Government of India Act, has been obtained to the passing of this Act;

It is hereby enacted as follows:—

### PART I.

#### CHAPTER I.

##### PRELIMINARY.

1. (1) This Act may be called the Calcutta Municipal Act, 1923.

(2) Except as is hereinafter otherwise expressly provided, it applies only to Calcutta.

(3) It shall come into force on the first day of April, 1924:

Short title,  
extent and  
commence-  
ment.

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1921, Pt. IV, pp. 393-396; for Report of Select Committee, see *Calcutta Gazette*, Extraordinary, dated the 19th January 1923, pp. 3-42; and, for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1921, Vol. V, pp. 121-134, 409-456, 458-495, and 513-542, and, 1922, Vols. VII and VIII, pp. 28 and 29 and 87-108; and 1923, Vol. XI, No. 1, p. 87, and Vol. XI, No. 2, pp. 13-69, 76-170, 183-223, 233-278, 284-462 and 470-527; and Vol. XI, No. 4, pp. 4-62 and 66-243.

<sup>2</sup>The proviso and the *Explanation* to sub-section (3) of s. 1 were repealed by the Bengal Repealing and Amending Act, 1928 (Ben. Act I of 1928).

*The Calcutta Municipal Act, 1923.*

- (1) of section 2;  
(5) of section 2; and  
(2) of section 557;

following note, namely:—

Bengal Act XVI of 1946, section 3 and the Second

[No. 41, dated the 22nd July, 1947.]  
Municipal Act, 1899,

Ben. Act  
III of  
1899.

(b) the Calcutta Municipal (Loans) Act, 1914, and

Ben. Act  
IV of 1914.  
Ben. Act,  
I of 1917.

(c) the Calcutta Municipal (Amendment) Act,  
1917.

**Repeal of  
commitments  
and savings.**

(2) In the area added to Calcutta—

(a) the Bengal Municipal Act, 1884, and

Ben. Act  
III of  
1884.

(b) the Bengal Food Adulteration Act, 1919, shall  
be deemed to be repealed.

Ben. Act  
VI of  
1919.

(3) Every budget passed, loan taken, assessment, plan of a projected public street, measurement or division made, standard plan of a *bustee* approved, license, permission or sanction granted and debenture or notice issued under the Calcutta Municipal Act, 1899, shall, so far as it is in force at the commencement of, and is not inconsistent with, this Act, be deemed to have been respectively passed, taken, made, approved, granted or issued under this Act, and shall (unless previously altered, modified, cancelled, repaid, suspended, surrendered or withdrawn, as the case may be, under this Act) remain in force for the period (if any) for which it was so passed, taken, made, approved, granted or issued.

(4) Except as the <sup>1</sup>[Provincial Government] may otherwise, by notification in the <sup>2</sup>[*Official Gazette*], direct, all rules, by-laws, regulations, orders, directions

<sup>1</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "*Calcutta Gazette*", *ibid.*

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(Part I.—Chapter I.—Preliminary.—Sec. 3.)

and powers made, issued or conferred under the provisions of the Calcutta Municipal Act, 1899, and in force at the date of the commencement of this Act, shall apply to the area added to Calcutta in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under either of the Acts repealed in such area under sub-section (2), and every appointment made in the area added to Calcutta under either of the said Acts shall, so far as it is not inconsistent with the provisions of this Act, continue in force, and be deemed to have been made under the provisions of this Act, unless and until it is superseded by any appointment made under this Act.

(5) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint a person to exercise and perform the powers and duties which are conferred or imposed by or under this Act on the Executive Officer until that officer is appointed under section 51, sub-section (1).

3. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) the expression “area added to Calcutta” means— “Area added to Calcutta.”

- (i) the Maniktala Municipality;
- (ii) the Cossipur-Chitpur Municipality;
- (iii) <sup>3</sup>[the area within the limits of the Garden Reach Municipality as constituted at the commencement of this Act which had been acquired prior to the commencement of the Garden Reach Municipality Act, 1932, by the Commissioners for the Port of Calcutta for the construction of

Ben. Act  
III of 1932

Page 141—

In sub-clause (iv) of clause (1) of section 3, for the words “Commissioners of the Port of Calcutta” substitute the words “Commissioners for the Port of Calcutta”.

(Substituted by West Ben. Act XIX of 1949, section 2 and the First Schedule.)

[No. 44, dated the 2nd August, 1949.]

Muni-

cipality; and

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>See foot-note 2 on p. 140, ante.

<sup>3</sup>These words were substituted for the words “the Garden Reach Municipality” by the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932).



## (Part I.—Chapter I.—Preliminary.—Sec. 3.)

(v) that portion of the Tollyganj Municipality which comprises the Ballyganj Pumping Station and the High Level Outfall Sewer;

■ 'Adulterated.'

(2) an article shall be deemed to be "adulterated"—

(a) in the case of drugs—

(i) if, when it is sold or exposed for sale under or by a name recognised in the British, German, American or any other Pharmacopœia which the <sup>1</sup>[Provincial Government] may specify by notification in the <sup>2</sup>[Official Gazette], it differs from the standard of strength, quality or purity laid down in the said Pharmacopœia, unless the standard of strength, quality or purity of such drug be plainly stated on the bottle, box or other receptacle, or

(ii) if its strength, quality or purity falls below the professed standard under which it is sold or exposed for sale;

(b) in the case of confectionery—

if it contains any mineral substance or poisonous colour or flavour or other ingredients deleterious or detrimental to health; and

(c) in the case of food—

(i) if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, or

(ii) if any substance has been substituted wholly or in part for the article, or

(iii) if any valuable constituent of the article has been wholly or in part abstracted, or

(iv) if it is mixed, coloured, powdered, coated or stained in a manner whereby damage or inferiority is concealed, or

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>See foot-note 2 on p. 140, *ante*.

(Part I.—Chapter I.—Preliminary.—Sec. 3.)

- (v) if it does not comply with the standard prescribed therefor by or under this Act or under any other law for the time being in force, or
- (vi) if it contains or is mixed or diluted with any substance in any quantity to the prejudice of the purchaser or consumer or in any proportion which diminishes in any manner its food value or nutritive properties as compared with the same in a pure or normal state and in an undeteriorated and sound condition, or
- (vii) if it contains any added poisonous or other added deleterious ingredient which may render such article

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In section 3, *after* clause (3) *insert* the following clause:—

“(3A) ‘Anglo-Indian’ means a person whose father or any of whose other male progenitors in the male line is or <sup>Agent.</sup> was of European descent but who is a native of India;”.

[Inserted by Ben. Act XI of 1939, section 2(1).]

[No. 1, dated the 15th September, 1939.]

- (5) “*bazar*” means any place of trade (other than a market) where there is a collection of shops or warehouses which the Corporation may, by resolution, declare to be a *bazar*;
- (6) “*budget-grant*” means a sum entered on the expenditure side of a Budget Estimate which has been finally adopted, and includes also any sum by which a budget-grant is at any time increased by a transfer under clause (c) of sub-section (1) of section 95; “Budget-grant.”
- (7) “*building*” includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall not exceeding ten feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, but does not include a *hogla* or other similar kind of temporary shed erected on ceremonial festive occasions; “Building.”

## (Part I.—Chapter I.—Preliminary.—Sec. 3.)

"Building-line."

(8) "building-line" means the line up to which the main wall of a building abutting on a street or a projected public street may lawfully extend;

"Building of the warehouse class."

(9) "building of the warehouse class" means a building the whole, or a substantial part of which is used, or intended to be used, as a warehouse, factory, manufactory, brewery, or distillery, or for any similar purpose, which is neither a "domestic building," nor a "public building" as defined in this section, and includes a hut used or intended to be used for any of the purposes mentioned in this clause;

"Bustee."

(10) "bustee" means an area containing land occupied by, or for the purposes of, any collection of huts—

(a) standing on a plot of land not less than ten *cottahs* in area and bearing one number in the assessment book, or

(b) standing on two or more plots of land which are adjacent to one another and exceed in the aggregate one *bigha* in area;

"Calcutta."

(11) "Calcutta" includes the area added to Calcutta and means the area described in Schedule I and any other area which the <sup>1</sup>[Provincial Government] may include in that schedule on the issue of a notification in the <sup>2</sup>[*Official Gazette*] under section 543;

"Candidate."

(12) "candidate" in section 46 and in Schedule II means a person who has been nominated as a candidate at any election of a Councillor or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election, provided that he is subsequently nominated as a candidate at such election;

"Carriage."

(13) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a *jinrickshaw*,

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>See foot-note 2 on p. 140, *ante*.

(Part I.—Chapter I.—Preliminary.—Sec. 3.)

but does not include a bicycle and a tricycle  
\* \* \* or a perambulator or other form of  
vehicle designed for the conveyance of small  
children;

- (14) 'cart' means any cart, hackery or wheeled vehicle with or without springs, which is not a "carriage" as defined in this section, and includes a handcart, <sup>2</sup>[but does not include any wheeled vehicle which is propelled by mechanical power or its trailer]; 'Cart.'
- (15) "connected-privy" means a privy which is directly connected with a sewer; "Connected-privy."
- (16) "connected-urinal" means a urinal which is directly connected with a sewer; "Connected-urinal."
- (17) "corrupt practice" means any act deemed to be a corrupt practice under the provisions of Schedule II; "Corrupt practice."
- (18) the expression "cubical extent" when used with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey; "Cubical extent."
- (19) "dairy" includes any farm, cattle-shed, cow-house, milk-store, milk-shop, or other place from which milk is supplied only on, or for, sale or in which milk is kept, or used for the purposes of sale, or manufacture into butter, ghee, cheese, curds, or dried, <sup>3</sup>[sterilized] or condensed milk, for sale, "Dairy."
- and in the case of a dairyman, who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include—
- (a) a shop from which milk is not supplied otherwise than in properly closed and unopened receptacles in which it was delivered to the shop, or

<sup>1</sup>The words "(other than a motor bicycle or motor tricycle)" were omitted by the Bengal Motor Vehicles Tax Act, 1932 (Ben. Act I of 1932).

<sup>2</sup>These words were added, *ibid*.

<sup>3</sup>This word was inserted by s. 2(i) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

## (Part 1.—Chapter 1.—Preliminary.—Sec. 3.)

- (b) a shop or other place in which milk is sold for consumption on the premises only, or
- (c) a shop or place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place;
- 'Dairyman.'
- (20) "dairyman" includes any occupier of a dairy, any cow-keeper who trades in milk, or any seller of milk whether wholesale, or by retail;
- "Dangerous disease."
- (21) "dangerous disease" means—
- (a) cholera, plague, small-pox, cerebrospinal meningitis and diphtheria; and
- (b) any other epidemic, endemic or infectious disease which the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], declare to be a dangerous disease for the purposes of this Act;
- "Depot."
- (22) "depot" means a place where bulky articles are stored, whether for sale or otherwise but not for domestic consumption, in quantities exceeding fifty maunds;
- "Domestic building."
- (23) "domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse class" nor a "public-building," as defined in this section, nor a place exclusively used for private worship;
- "Domestic purposes."
- (24) a supply of water for "domestic purposes" shall not be deemed to include a supply—
- (a) for animals or for washing carriages, where such animals or carriages are kept for sale or hire,
- (b) for any trade, manufacture or business,
- (c) for fountains,
- (d) for watering gardens or streets,
- (e) for any ornamental or mechanical purpose,
- (f) for building purposes, or
- (g) for flushing purposes;

<sup>1</sup>See foot-note 1 on p. 140, *ante*.<sup>2</sup>See foot-note 2 on p. 140, *ante*.

[1923.]

*(Part I.—Chapter I.—Preliminary.—Sec. 3.)*

- (25) "drain" includes a sewer, a house-drain, a "Drain."  
drain of any other description, a tunnel, a  
culvert, a ditch, a channel and any other  
device for carrying off sullage, sewage,  
offensive matter, polluted water, rain-water  
or sub-soil water;
- (26) "drug" means any substance used as medicine "Drug."  
or in the composition or preparation of medi-  
cines, whether for internal or external use;
- (27) "dwelling house" means a masonry building "Dwelling  
constructed, used or adapted to be used  
wholly or principally for human habitation; house."
- <sup>a</sup>(28) "edible oil" means cocoanut oil, cotton seed "Edible oil."  
oil, groundnut oil, olive oil, til (sesame)  
oil, in their pure state, imported salad oil  
labelled as such, any vegetable oil prepared  
by any hardening process such as hydroge-  
nation, labelled as such and bearing in the  
label in English and Bengali the names of  
the oils entering into its composition, and  
any other oil that the <sup>2</sup>[Provincial Govern-  
ment] may, by notification in the <sup>3</sup>[*Official  
Gazette*], declare to be an edible oil for the  
purposes of this Act;
- <sup>a</sup>(28a) "edible fat" means fat that is prepared in a "Edible fat."  
manner approved by the Health Officer of the  
Corporation from healthy goats, sheep, pigs,  
cows, buffaloes, or any other animal that the  
<sup>2</sup>[Provincial Government] may, by notifica-  
tion in the <sup>3</sup>[*Official Gazette*], specify for the  
purposes of this clause;
- (29) "election agent" means the person appointed "Election  
under section 27, sub-section (2), by a candi- agent."  
date as his agent for an election;
- (30) "Executive Officer" means the Chief Executive "Executive  
Officer appointed under section 51, sub-section Officer."  
(1), and includes an acting Executive Officer  
appointed during his temporary absence;
- (31) "food" includes every article used for food or "Food."  
drink by man, other than drugs or water, and  
any article which ordinarily enters into or is  
used in the composition or preparation of

<sup>1</sup>Clauses (28) and (28a) were substituted for the original clause 28 by s. 2 of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).

<sup>2</sup>See foot-note 1 on p. 140, *ante*.

<sup>3</sup>See foot-note 2 on p. 140, *ante*.

## (Part I.—Chapter I.—Preliminary.—Sec. 3.)

human food; and also includes confectionery, flavouring and colouring matters and spices and condiments;

- "Habitable room." (32) "habitable room" means a room constructed or adapted for human habitation;
- "Half-year." (33) "half year" means half of a financial year;
- "House-drain." (34) "house-drain" means any drain of, and used for the drainage of, one or more premises;
- "House-gully." (35) "house-gully" means a passage or strip of land constructed set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom and includes the air space above such passage or land;
- "Hut." (36) "hut" means any building, no substantial part of which, excluding the walls up to a height of eighteen inches above the floor or floor level, is constructed of masonry, steel, iron or other metal;
- "Inhabited" (37) "inhabited room" means a room in which some person passes the night, or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room;
- "Label." (38) "label" includes any tag, brand, mark or statement in writing on or attached to or used in connection with any package containing any article of food, drug or substance;
- "Market." (39) "market" includes any place where persons assemble for the sale of meat, fish, fruit, vegetables, live-stock, or any other article of food;
- "Masonry building." (40) "masonry building" means any building other than a hut, and includes any structure a substantial part of which is made of masonry, steel, iron or other metal;
- "Milk." (41) "milk" includes cream, skimmed milk, separated milk and <sup>1</sup>[condensed, sterilized or] dessicated milk;

<sup>1</sup>These words were substituted for the words "condensed and" by s. 2(ii) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

[1923.]

(Part I.—Chapter I.—Preliminary.—Sec. 3.)

- (42) all drugs or articles of food which enter into the composition of food, the package, <sup>1</sup>[mark] or label of which bears any statement, design or device regarding such drugs or articles or the ingredients or substances contained therein as may be false or may mislead in any particular, shall be deemed to be "misbranded"; and a drug or an article of food shall also be deemed to be misbranded, if it is offered for sale under the name of another drug or article of food; "Misbranded."
- (43) "municipal drain" means a drain vested in the Corporation; "Municipal drain."
- (44) "municipal market" means a market belonging to or maintained by the Corporation; "Municipal market."
- (45) "municipal slaughter-house" means a slaughter-house belonging to or maintained by the Corporation; "Municipal slaughter-house."
- (46) the expression "new building" means and includes— "New building."
- (a) any building erected from the ground upwards after the commencement of this Act,
- (b) any building which, having collapsed or been demolished or burnt down for more than one-half of its cubical extent, is re-erected wholly or partially after the commencement of this Act, whether the dimensions of the re-erected building are the same as those of the original building or not,
- (c) any hut which is converted into a masonry building after the commencement of this Act, and
- (d) any building not originally constructed for human habitation which is converted into a place for human habitation after the commencement of this Act:
- Explanation*—Sub-clause (b) applies whether more than half the cubical extent has collapsed or been demolished or burnt down at the same time or at different times;
- (A) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the "Nuisance."

<sup>1</sup>This word was inserted by the s. 2(iii) of the Calcutta Municipality (Amendment) Act, 1930 (Ben. Act IV of 1930).



*(Part I.—Chapter I.—Preliminary.—Sec. 3.)*

- sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property;
- 'Occupier.'** (48) "occupier" includes any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or damages on account of the occupation of such land or building, and also an owner living in, or otherwise using, his own land or building and also a rent-free tenant;
- "Offensive matter."** (49) "offensive matter" means kitchen or stable refuse, dung, dirt, putrid or putrefying substances, and filth of any kind which is not included in "sewage" as defined in this section;
- "Owner."** (50) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver or who would so receive such rent if the land, building or part thereof were let to a tenant;
- 'Package.'** (51) "package" includes every means by which goods for carriage or for storage or for sale are cased in, covered, enclosed, contained or packed;
- 'Party-wall.'** (52) "party-wall" means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different owners or constructed or adapted to be occupied by different persons;
- 'Platform.'** (53) the word "platform," when used with reference to a privy, means the surface containing the aperture through which the sewage passes into the receptacle or sewer;
- 'Private street.'** (54) "private street" means any street, road, lane, gully, alley, passage or square which is not a "public street" as defined in this section, and includes any passage securing access to four or more premises, belonging to the same or different owners, but does not include a  
 1. in  
 any masonry building amongst joint owners where such passage is not less than eight feet wide,

[1923.]

(Part I.—Chapter I.—Preliminary.—Sec. 3.)

(55) "public analyst" means any person to be appointed by the Corporation to perform the duties and to exercise the powers of a public analyst prescribed by this Act; "Public analyst."

(56) "public building" means a masonry building constructed, used or adapted to be used— "Public building."

(a) as a place of public worship, or as a school, college or other place of instruction (not being a dwelling-house so used), or as a hospital, work-house, public theatre, public hall, public concert-room, public ball room, public lecture-room, public library or public exhibition room, or as a public place of assembly, or

(b) for any other public purpose, or

(c) as an hotel, lodging-house, home, refuge, or shelter, where the building exceeds in cubical extent two hundred and fifty thousand cubic feet or has sleeping accommodation for more than one hundred persons;

(57) "public street" means any street, road, lane, gully, alley, passage, pathway, square or court, whether a thoroughfare or not, over which the public have a right of way, "Public street."

and includes—

(a) the roadway over any public bridge or causeway,

(b) the footway attached to any such street, public bridge or causeway, and

(c) the drains attached to any such street, public bridge or causeway,

and, where there is no drain attached to any such street, shall, unless the contrary is shown, include also, all land up to the n the been

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In the margin against clause (59) of section 3 for "Ben. Act I of 1914" read "Ben. Act VI of 1914".

[No. 15, dated the 14th October, 1941.]

"Railway."

Ben.  
I of 1914.

~~means a~~ "Registered medical practitioner."  
Bengal Medical Act, 1914 ;

## (Part I.—Chapter I.—Preliminary.—Sec. 3.)

"Reside".

(60) (a) a person shall be deemed to "reside" in any dwelling-house or hut which, or some portion of which, he sometimes, although not uninterruptedly, uses as a sleeping apartment, and

(b) a person shall not be deemed to cease to "reside" in any such dwelling-house or hut merely because he is absent from it or has elsewhere another dwelling-house or hut in which he

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In section 3, after clause (61) insert the following clause:—

"Rubbish."

"(61A) 'scheduled castes' mean the castes, races or tribes, or parts of or groups within castes, races or tribes specified in Part III of the Schedule to the Government of India (Scheduled Castes) Order, 1936;"

[Inserted by Ben. Act XI of 1939, section 2(2).]

[No. 1, dated the 15th September, 1939.]

"Service-privy."

(62) "service-privy" means a ~~fixed~~ <sup>privy</sup> which is cleansed by hand, but does not include a movable commode;

"Service-urinal."

(63) "service-urinal" means a fixed urinal which is cleansed by hand;

"Sewage."

(64) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;

"Sky-sign."

(65) "sky-sign" means any word, letter, model, sign, device or other presentation, in the nature of an advertisement, announcement or direction, which is supported on or attached to any post, pole, standard, framework or other support wholly or in part upon, over or above any building or structure and which is wholly or in part visible against the sky from any point in any street or public place, and includes—

(a) every part of such support, and

(b) any balloon, parachute or similar device employed wholly or in part for the purposes of any advertisement or

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*(Part 1.—Chapter 1.—Preliminary.—Sec. 4.)*

announcement, on, over, or above any building, structure or erection of any kind, or on or over any street or public place;

but shall not be deemed to include—

- (i) any flagstaff, pole, vane or weathercock, unless adapted or used wholly or in part for the purposes of any advertisement or announcement,
  - (ii) any sign on any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, on the cornice or blocking-course of any wall, or to the ridge of a roof, if such contrivance be of one continuous face and not open work and does not extend in height more than three feet above any part of such wall, parapet or ridge, or
  - (iii) any representation which relates exclusively to the business of a railway company, and which is placed wholly upon or over any railway, railway station, yard, platform or station approach, or premises belonging to a railway company, and which is also so placed that it could not fall into any street or public place;
- (66) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat; "Slaughter-house."
- (67) "street" means a public or private street; "Street."
- (68) "street alignment" means the line dividing the land comprised in and forming part of a street from the adjoining land; and "Street alignment."
- (69) "year" means a financial year. "Year."

4. The Corporation may decide whether any particular area is or is not a "bustee" as defined in section 3, and their decision shall be final.

Power to Corporation to decide whether area is a bustee or not.

(Part II.—Chapter II.—The Corporation.—Secs. 5, 6.)

## PART II.

## Constitution and Government.

## CHAPTER II.

Page 154—

In section 5

Page 154—

“(b) eight

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(i) to se

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(ii) to se

not

Provided

to the persons elected as Councillors to represent labour constituency, appoint one Councillor to represent the interests of labour employed within the limits of Calcutta, and”.

For clauses (a) and (b) of section 5 substitute the following clause, namely:—

“(a) ninety-six Councillors of whom—

(i) ninety-five shall be elected, and

(ii) one shall be the Chairman of the Trustees for the Improvement of Calcutta, *ex-officio*, and”.

(Substituted by West Bengal Act I of 1947, section 3.)

[No. 43, dated the 5th June, 1949.]

[Substituted by Ben. Act XI of 1939, section 3(2).]  
[No. 1, dated the 15th September, 1939.]

and shall, by the name of “the Corporation of Calcutta,” be a body corporate and have perpetual succession and a common seal, and may by such name sue and be sued.

Property vested  
in the Corpora-  
tion.

6. All property, movable and immovable, and all interests of whatsoever nature or kind therein, vested in the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, at the commencement of this Act, with all rights of whatsoever description used, enjoyed or possessed by the said Corporation, and all rights and interests in immovable property situated within the area added to Calcutta which are now vested in, or held in trust for, the Commissioners of the Manik-tala, Cossipur-Chitpur, Garden Reach and Tollyganj

Ben. Act  
III of  
1899.

<sup>1</sup>The words “seventy-seven” were substituted for the words “eighty-one” by the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932) as amended by section 4 of the Calcutta Municipal (Second Amendment) Act, 1933 (Ben. Act XXIII of 1932), the words “eighty-one” were substituted for the original words “seventy-five” by s. 2 of the Calcutta Municipal (Second Amendment) Act, 1932 (Ben. Act XXIII of 1932).

<sup>2</sup>See foot-note 1 on p. 140, ante

Page 135—

For section 8 substitute the following section, namely:—

“8. (1) Eighty-six Councillors shall be elected by Number of Councillors territorial constituencies to be formed to be elected by territorial and other constituencies. under the provisions of section 8B.

(2) Nine Councillors shall be elected by such constituencies as are specified in Schedule III and the number of Councillors to be elected by each such constituency shall be as stated therein against that constituency.”

(Substituted by West Bengal Act I of 1947, section 4.)

[No. 43, dated the 5th June, 1949.]

Page 155—

After section 8 insert the following sections, namely:—

“8A. (1) The Provincial Government shall by notification in the *Official Gazette* provide for the representation of members of the Scheduled Castes by reserving for such members seats from among those to which Councillors are to be elected under sub-section (1) of section 8. The number of seats so reserved shall be in accordance with the proportion borne by such members to the total population of Calcutta according to the latest census.

constituencies.

tion of  
men.

When no special territorial constituency is formed for election to seats reserved for one of the minority communities referred to in sub-section (2) of section 8A, the seats reserved for the other minority community for election to which special constituencies are not formed and the seats reserved for the members of the Scheduled Castes shall be allotted to such general territorial constituencies in such manner as the Provincial Government may specify.

(4) When no special territorial constituency is formed the seats reserved for a minority community referred to in sub-section (2) of section 8A and the seats reserved for the members of the Scheduled Castes shall be allotted to the territorial constituencies in such manner as the Provincial Government may specify.”

Annual election  
of Mayor and  
Deputy Mayor.

(Inserted by West Bengal Act I of 1947, section 5.)

[No. 43, dated the 5th June, 1949.]

*(Part II.—Chapter II.—The Corporation.—Secs. 11, 12.)**Powers, duties and functions of the Corporation.*

al admini-  
tration report and  
statement of  
accounts by the  
Corporation.

11. ✓(1) The Corporation shall, as soon as may be after each first day of April, cause to be prepared a detailed report of the municipal administration of Calcutta during the previous year, together with a statement showing the amounts of the receipts and disbursements, respectively, credited and debited to the Municipal Fund during the said year, and the balance at the credit of the said fund at the close of the said year; and a report for the same period from the head of each department of the Corporation shall be incorporated in the said report.

(2) The Corporation shall thereupon forward a copy of the said report and statement to each Councillor and Alderman and to the <sup>1</sup>[Provincial Government].

(3) The Corporation shall, as soon as may be thereafter, consider the said report and statement, and a copy of the proceedings of any meeting at which the same may be discussed shall be forwarded by the Corporation to the <sup>1</sup>[Provincial Government].

(4) Copies of all the aforesaid documents shall be obtainable by any person requiring the same, on payment of such reasonable fee for each copy as the Corporation may determine.

Delegation of  
Corporation's  
functions.

12. (1) The Corporation may, by a resolution passed at a special meeting, delegate to the Executive Officer any of the Corporation's powers, duties or functions under this Act or under any rule or by-law made thereunder.

(2) The Executive Officer may, by a general or special order in writing, re-delegate to any municipal officer any of the powers, duties or functions which have been delegated to him by the Corporation under sub-section (1).

(3) The Executive Officer may, by a general or special order in writing, delegate to any municipal officer any of the powers, duties or functions conferred or imposed upon or vested in him under this Act or under any rule or by-law made thereunder, except those conferred or imposed upon or vested in him under section 140 of this Act:

Provided that when, by any order made under this sub-section, any power to enter premises between sunset

<sup>1</sup>See foot-note 1 on p. 140, ante.

[1923.]

*(Part II.—Chapter II.—The Corporation.—Secs.  
13, 14.)*

and sunrise is delegated to any municipal officer, the name of such officer, as well as his official designation, shall be specified in the order.

✓(4) The exercise or discharge by the Executive Officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Corporation; and the exercise or discharge by any municipal officer of any powers, duties or functions delegated to him under sub-section (2) or sub-section (3) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Executive Officer:

Provided that, if, in delegating any of their powers, duties or functions to the Executive Officer under sub-section (1) the Corporation direct that the action of that officer shall be final, then the exercise or discharge by him of the power, duty or function so delegated shall not be subject to control or revision by the Corporation.

13. The exercise or performance by any municipal officer of any power conferred or duty imposed by or under this Act which will involve expenditure shall, except in any case specified in the proviso to section 85, be subject to the following conditions, namely:—

Exercise of functions to be subject to condition of the necessary expenditure.

- (a) such expenditure, so far as it is to be incurred in the year in which such power is exercised or duty performed, shall be provided for under a current budget-grant, and,
- (b) if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said year, liability for such expenditure shall not be incurred without the sanction of the Corporation:

Provided that clause (b) shall not apply where the proposed expenditure is covered by a current budget-grant and is such that it can be discontinued in the next year's budget.

*Control by the <sup>1</sup>[Provincial Government]*

✓14. When any project is framed by the Corporation for the execution of any work or series of works the entire estimated cost of which amounts to two and a half lakhs of rupees or more, then, notwithstanding

Sanction of Provincial Government required to projects costing two and a half lakhs or over.

<sup>1</sup>See foot-note 1 on p. 140, ante.



*(Part II.—Chapter II.—The Corporation.—  
Secs. 15-17.)*

that the cost may be included in a Budget Estimate as finally adopted under Chapter VII,—

- (a) the work shall not be commenced until the project has been sanctioned by the <sup>1</sup>[Provincial Government], and,
- (b) if any material change be made in the project after it has been so sanctioned, such change shall not be carried into effect unless and until it is sanctioned by the <sup>1</sup>[Provincial Government].

Power to Provincial Government to require returns, etc.

✓  
**15.** The <sup>1</sup>[Provincial Government] may require the Corporation to furnish them with—

- (a) any return, statement, estimate, statistics or other information, regarding any matter under their control;
- (b) a report on any such matter; or
- (c) a copy of any document in their charge.

Power to Provincial Government to depute officers to make inspection or examination and report.

✓  
**16.** (1) The <sup>1</sup>[Provincial Government] may depute any officer or officers to make an inspection or examination of any department, office, service, work or thing under the control of the Corporation, and to report to them the result of such inspection or examination.

(2) Any officer so deputed may, for the purpose of making such inspection or examination, inspect the condition of any part of Calcutta, and may require the Corporation—

- (a) to produce any record, correspondence, plan or other document which is in their possession or under their control;
- (b) to furnish any return, plan, estimate, statement, account or statistics; or
- (c) to furnish any report.

(3) Every requisition made under sub-section (2) shall be complied with by the Corporation without delay.

Power to Provincial Government to require Corporation to take action.

**17.** If, on receipt of any document furnished under section 15 or any report submitted under section 16, the <sup>1</sup>[Provincial Government] are of opinion that—

- (a) any of the duties imposed by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

<sup>1</sup>See foot-note 1 on p. 140, ante.

(Part II.—Chapter II.—The Corporation.—Sec. 18.)

- (b) adequate financial provision has not been made for the performance of any such duty,

the <sup>1</sup>[Provincial Government] may, by written order, direct the Corporation within a period to be specified in the order,—

- (i) to make arrangements to their satisfaction for the proper performance of the duties referred to in clause (a), or to make financial provision to their satisfaction for the performance of any such duty, as the case may be, or
- (ii) to show cause to the satisfaction of the <sup>1</sup>[Provincial Government] against the making of such arrangements or provision, as the case may be.

18. (1) If, within the period fixed by any order issued under section 17, any action directed under clause (i) of that section has not been duly taken, or cause has not been shown as aforesaid, the <sup>1</sup>[Provincial Government] may, by order,—

Procedure by Provincial Government where Corporation fail to take action.

- ✓(a) appoint some person to take the action so directed,
- (b) fix the remuneration to be paid to him, and
- (c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Fund and, if necessary, that the consolidated rate or other taxes authorized by Part IV shall be levied or increased, but not so as to exceed any *maximum* prescribed by that part.

(2) The person appointed under sub-section (1) may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred by or under this Act which are specified in that behalf in the order issued under sub-section (1).

(3) The <sup>1</sup>[Provincial Government] may, in addition to or instead of directing under sub-section (1) the levy or increase of the consolidated rate or other taxes, direct, by notification in the <sup>2</sup>[Official Gazette], that any sum of money which may, in their opinion, be required for giving effect to any order issued under that sub-section be borrowed by way of debenture on the security of the said rate or all or any of the said taxes, or of both the

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>See foot-note 2 on p. 140, ante.

(Part II.—Chapter II.—The Corporation.—Chapter III.  
—Election and Appointment of Councillors and  
Aldermen.—Secs. 19, 20.)

said rate and all or any of the said taxes, at such rate of interest and upon such terms as to the time of repayment and otherwise as may be specified in the notification.

(4) The provisions of Chapter VIII shall apply to any loan raised in pursuance of sub-section (3).

Power to  
Provincial  
Government to  
annul illegal  
proceedings of  
Corporation.

19. (1) The [Provincial Government] may, after consideration of any representation which may be made by the Corporation, by written order, annul any proceeding of the Corporation which they consider not to be in conformity with law or with the rules or by-laws in force thereunder, and may do all things necessary to secure such conformity.

Pages 16 Page 160—

In sub-section (1) of section 20 for the words "every person" shall be qualified as an elector of a general constituency specified (a) in Schedule III" substitute the following:—

- "(i) every Muhammadan shall be qualified as an elector of a Muhammadan constituency,
- (ii) every Anglo-Indian shall be qualified as an elector of an Anglo-Indian constituency, and
- (iii) every person other than a Muhammadan or an Anglo-Indian shall be qualified as an elector of a general constituency,

specified in Schedule III".

[Substituted by Ben. Act XI of 1939, section 5(a).]

No. 1, dated the 15th September, 1939.]

members of the Bengal Chamber of Commerce and Muslim Indian Chamber of Commerce, members of the Calcutta Chamber of Commerce and Marwari Association and Commissioners for the Port of Calcutta shall be qualified respectively as electors for the constituency comprising the Chamber or Association or Trust of which they are such members.

(Substituted by West Bengal Act I of 1950, section 2)

In sub-section (1) of section 20—

- (a) in clause (a) omit the words and figures "or, in the case of the first general election under this Act, under the corresponding chapters of the Calcutta Municipal Act, 1899";
- (b) in clause (b) omit the words and figures "or, in the case of the first general election held under this Act, under the Calcutta Municipal Act, 1899";
- (c) in clause (c) omit the words and figures "or, in the case of the first general election held under this Act, under the corresponding chapter of the Calcutta Municipal Act, 1899".
- (Omitted by West Bengal Act VII of 1948, section 2 and the First Schedule.)

[No. 43, dated the 5th June, 1949.]

\* \* \* \* \*

<sup>3</sup>[Provided that such payment has been made during and in respect of the year (or any portion of the year) last preceding the year in which the election is held.]

Provided also that for the purposes of clause (a) the members of the Auxiliary Force who are exempted by the Corporation from paying the tax on horses used for the force shall be considered to have paid such tax; or

Ben. Act  
I of 1932.

<sup>3</sup>(aa) being or having been a person who keeps for use a motor vehicle for carrying passengers which is liable to the tax under the Bengal Motor Vehicles Tax Act, 1932, has paid to the "[Provincial Government] a sum not less than twelve rupees in respect of such tax:

<sup>5</sup>[Provided that such payment has been made in respect of the year last preceding the year in which the election is held or any portion thereof and before the expiration of that year; or]

<sup>6</sup>[(b) being or having been the occupier of any premises valued for assessment purposes under this Act or, in the case of the first general election held under this Act, under the Calcutta Municipal Act, 1899, or of a portion of any such premises has, at any time during the year last preceding the year in

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<sup>1</sup>The first proviso was omitted by s. 8(a)(ii) of the Calcutta Municipal (No. II) Act, 1923 (Ben. Act XI of 1923).

<sup>2</sup>This proviso was substituted for the original proviso by s. 8(a)(iii), *ibid*.

<sup>3</sup>Clause (aa) was inserted by s. 2(a) of the Calcutta Municipal (Second Amendment) Act, 1935 (Ben. Act II of 1936).

<sup>4</sup>See foot-note 1 on p. 140, *ante*.

<sup>5</sup>This proviso was substituted for the original proviso by s. 2 of the Calcutta Municipal (Amendment) Act, 1936 (Ben. Act VIII of 1936).

<sup>6</sup>Clauses (b) and (c) were substituted for the original clauses by s. 8(b) and (c) of the Calcutta Municipal (No. II) Act, 1923 (Ben. Act XI of 1923).


After subsection (3) of Section 20, add the following subsections—

- (3) Chamber members of the Bengal Chamber of Commerce, members of the Calcutta Trades Association, and Commissioners for the Port of Calcutta shall be qualified respectively as electors for the constituency comprising the Chamber or Association or Trust of which they are such members.

*Explanation.*—(a) 'Chamber member' includes any person entitled to exercise the rights and privileges of Chamber membership on behalf of any firm, company or other corporate body registered as such member.

(b) 'Member' includes—

- (i) in the case of a firm, any one partner in the firm or, if no such partner is present in Calcutta at the date fixed for the election, any one person empowered to sign for such firm, and
- (ii) in the case of a company or other corporate body, any one manager, director, or secretary of the company or corporate body.

 A person shall be qualified as an elector of a labour constituency specified in Schedule III if he is a member of a trade union registered under the Indian Trade Unions Act, 1926, which has its registered office within the limits of Calcutta and which is recognised in accordance with the provisions of paragraph 18 of Part IV of the Government of India (Provincial Legislative Assemblies) Order, 1936:

Provided that such person—

- (i) has resided within the limits of Calcutta for a period of at least six months in the aggregate during the year last preceding the year in which the election is held;
- (ii) has been actually engaged or employed within the limits of Calcutta in an industry with which the trade union is connected; and
- (iii) is not in arrear with his subscription to the trade union."

[Added by Ben. Act XI of 1939, section 5(b).]

[No. 1, dated the 15th September, 1939.]

and Amending Act, 1938 (Ben. Act I of 1939).]

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<sup>1</sup>See foot-note 6 on p. 161, ante.

<sup>2</sup>These brackets and letters were inserted by s. 2(b) of the Calcutta Municipal (Second Amendment) Act, 1935 (Ben. Act II of 1935).

Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sec. 22.)

22. (1) A person shall not be eligible for election or appointment as a Councillor or

General dis-qualifications for being a Councillor or Alderman.

Pages 163-164—

In sub-sections (1), (2) and (3) of section 22 after the words "or appointment" insert the words and figures "under section 36".

(Inserted by West Bengal Act I of 1947, section 8.)

[No. 43, dated the 5th June, 1949.]

Page 163—In line 10, for "misfortunate" read without being a discharged insolvent, has not obtained

(e) is a municipal officer or servant, or a plumber or building surveyor licensed under this Act; or

(f) is President of the Tribunal of the Board of Trustees for the Improvement of Calcutta, or an assessor to that Tribunal, or a Judge of a Court of Small Causes, or a Municipal Magistrate, or is acting in any of those capacities; or

(g) has, directly or indirectly, by himself or by his partner or employer or any employé, any share or interest in any contract or employment with, by, or on behalf of, the Corporation, <sup>1</sup>[or

(h) has not paid any sum certified by the auditors to be due from him in a certificate which has not been set aside under this Act or, if such certificate has been modified under section 123B, sub-section (4), or under section 123C, has not paid the sum shown to be due from him in the modified certificate:]

Provided as follows:—

(a) notwithstanding anything contained in clause (g), no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in—

(i) any lease, sale or purchase of land or any agreement for the same; or

\* <sup>1</sup>These words within square brackets were inserted by s. 2 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

*(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sec. 22.)*

- (ii) any agreement for the loan of money or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or
- (iv) any incorporated company which contracts with or is employed by the Corporation;

(b) no Councillor or Alderman who has, directly or indirectly, by himself or by his partner or employer or any employé, a share or interest in any matter or thing described in proviso (a), or who has acted professionally on behalf of any person having such share or interest, shall vote or take any part in any proceeding relating to that matter or thing.

(2) A person against whom a conviction by a criminal court for an offence involving moral turpitude and carrying with it a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election or appointment for five years from the date of the expiration of the sentence.

(3) Notwithstanding anything contained in the Indian Elections Offences and Inquiries Act, 1920, if any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, in the course of any proceedings under section 46, found by the High Court to have committed a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II of Schedule II, such person shall not be eligible for election or appointment for five years from the date of such conviction or of the finding of the High Court, as the case may be; and a person found by the High Court in the course of any such proceedings as aforesaid to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

XXXIX  
of 1920.  
Act XLV  
of 1860.

(4) If any person has been a candidate or an election agent at an election as a Councillor under this Act and has failed to lodge any prescribed return of election expenses or has lodged a return which is found, either by the High Court in the course of any proceedings under section 46 or by a Magistrate in a judicial

[of 1923.]

(Part) Page 125.

Page 125—

For section 23, substitute the following section:—

"23. No person shall be eligible for election as a Councillor to represent, as provided in Schedule III,—

- (a) a general constituency unless his name is duly registered on the electoral roll of that or any other general constituency and unless in the case of a seat reserved for a member of any of the scheduled castes he himself is a member of any of those castes:

Provided that nothing in this clause shall prevent a member of any of the scheduled castes for which a seat is reserved from being eligible for election to a seat not so reserved,

- (b) a Muhammadan constituency unless his name is duly registered on the electoral roll of that or any other Muhammadan constituency,
- (c) an Anglo-Indian constituency unless his name is duly registered on the electoral roll of the constituency,
- (d) a labour constituency unless his name is registered on the electoral roll of the constituency,
- (e) a special constituency unless his name is registered on the electoral roll of the constituency."

, namely:—  
election as a  
Qualification for  
election as  
Councillor.  
in the case

section (2)  
er of that  
all prevent  
a minority  
from being  
served for  
minority

Councillor  
registered  
and  
registered

(Substituted by Ben. Act XI of 1939, section 6.)

[No. 1, dated the 15th September, 1939.]

tion 9.)

following disqualifications, namely:—

- (a) has been adjudged by a competent court to be of unsound mind; or
- (b) is under twenty-one years of age:

Provided that the manager of a lunatic or the guardian of a minor appointed by the Court as such shall be entitled to have his name registered on the electoral roll as the representative of the lunatic or minor, if, but for the provisions of clauses (a) or (b) of sub-section (1) of section 22, as the case may be, such lunatic or minor would have been qualified for election.

(2) A company, body corporate, firm, joint family or other association of individuals, as such, shall not be registered in its own name in the electoral roll, but if qualified as an elector, may obtain the registration of

<sup>1</sup>See foot-note 1 on p. 140, ante.



To sub-section (2) of section 24, add the following:—

and notwithstanding anything contained elsewhere in this

Page 166—

In sub-section (2) of section 24 omit the words beginning with "and notwithstanding anything contained elsewhere" and ending with "Muhammadan or Anglo-Indian, as the case may be".

(Omitted by West Bengal Act 1 of 1947, section 10.)

[No. 43, dated the 5th June, 1949.]

[Added by Ben. Act. XI of 1939, section 7(1).]

[No. 1, dated the 15th September, 1939.]

Provided that a person who is registered as the representative of any company, body corporate, firm, joint family or other association of individuals under sub-section (2) or as the manager of a lunatic or the guardian of a minor shall not therefore be ineligible for registration in his individual capacity on the same electoral roll.

(4) Chamber members of the Bengal Chamber of Commerce, members of the Calcutta Trades Association, and Commissioners for the Port of Calcutta shall be qualified respectively as electors for the constituency Trust of

Page 166—

In section 24, omit sub-section (4) and the Explanation thereto and insert the following note:—

[Omitted by Ben. Act XI of 1939, section 7(2).]

[No. 1, dated the 15th September, 1939.]

(b) "Member" includes—

(i) in the case of a firm, any one partner in the firm or, if no such partner is present in Calcutta at the date fixed for the election, any one person empowered to sign for such firm, and

(ii) in the case of a company or other corporate body, any one manager, director, or secretary of the company or corporate body.

(5) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, in the course of any proceedings under section 46, found by the High Court to have committed a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II of Schedule II, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is, in the course of such proceedings as aforesaid, found by the High Court to have committed any other corrupt practice, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period

Act XLV  
of 1860.

section 1:

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sec. 25.)

of three years from the date of the report or, if not on the electoral roll, shall not be so registered for a like period:

Provided that the <sup>1</sup>[Provincial Government] may direct that the name of any person to whom this subsection applies shall be registered on the electoral roll.

**25.** (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the revising authority. Electoral roll.

(2) Subject to the provisions of this Act, the <sup>1</sup>[Provincial Government] shall make rules providing for—

- (a) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll;
- (b) the time at which the roll shall be prepared;
- (c) the publication of the roll in such manner and in such language as to give it wide publicity in the constituency to which it relates;
- (d) the mode in which and the time within which claims and objections may be preferred;
- (e) the constitution and appointment of revising authorities to dispose of claims and objections;
- (f) the manner in which notices of claims or objections shall be published;
- (g) the place, date, and time at which and the manner in which claims or objections shall be heard;

and may make such rules to provide for other matters incidental or ancillary to the preparation, revision, publication and regular maintenance of the roll as they may consider desirable. Such rules may be made as to rolls generally or any class of rolls or any particular roll.

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<sup>1</sup>See foot-note 1 on p. 140, ante.

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Secs. 26, 27.)

Page 16b—

To sub-section (4) of section 25, add the following proviso:—

“Provided that the said period of three years may be extended by the Provincial Government for a period not exceeding one year, by notification in the *Gazette*, if in special circumstances (to be specified in the notification) they so think fit.”

(Added by Ben. Act. V of 1939, section 2.)

[No. 1, dated the 15th September, 1939.]

(5) If a constituency is called upon to elect a Councillor or Councillors after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

Right to vote.

**26.** Every person registered on the electoral roll for the time being in force for any constituency shall while so registered be entitled to vote at an election of a Councillor or Councillors for that constituency.

*Elections.*

Nomination of candidates.

**27.** (1) Any person may be nominated as a candidate for election as a Councillor for any constituency for which he is eligible for election under this Act.

(2) On or before the date on which a candidate is nominated the candidate shall make in writing and sign a declaration appointing either himself or some other person who is not disqualified under section 32 for the appointment to be his election agent, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has been duly nominated shall within three days of his nomination deposit with the Executive Officer two hundred and fifty rupees which shall be liable to forfeiture if he withdraws his candidature within seven days of the date fixed for the election or if he fails to secure at the election at least ten *per cent.* of the votes cast. Failure to deposit the said amount shall render the nomination void.

(4) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

<sup>1</sup>See foot-note 1 on p. 140, ante.

For sub-section (1) of section 28 substitute the following sub-section, namely:—

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"(1) In any territorial constituency in which one or more seats are reserved for members of the Scheduled Castes or for any minority community referred to in sub-section (2) of section 8A, the following candidates, provided they are duly nominated and have not withdrawn their candidature, shall be declared to be duly elected, that is to say—

(a) if the number of candidates who are members of the Scheduled Castes or of any minority community is not greater than the number of seats reserved for members of those castes or for that community, as the case may be,—all such candidates;

(b) if the number of candidates who are members of the Scheduled Castes or of any minority community is not less than the number of seats reserved for

members of those castes or for that community, as the case may be, and the total number of candidates does not exceed the number of Councillors to be elected for the constituency—all such candidates:

Provided that if in any case referred to in clause (a) the number of candidates other than candidates who are members of the Scheduled Castes or of any minority community does not exceed the number of vacant seats not reserved for members of those castes or for that community, as the case may be, all such candidates shall be declared to be duly elected."

(Substituted by West Bengal Act I of 1947, section 11.)

[No. 43, dated the 5th June, 1949.]

their candidature, is not more than the number of Councillors to be elected for such constituency, all such candidates shall be declared to be duly elected.

29. (1) In any case not provided for in section 28, a poll shall be taken.

Procedure at election.

(2) Votes shall be given by ballot and in person. No votes shall be received by proxy.

(3) No votes shall be given either by [any Government] or by the Corporation.

(4) In plural-Councillor constituencies every elector shall have as many votes as there are Councillors to be elected, but no elector shall give more than one vote to any one candidate.

(5) Votes shall be counted by or under the supervision of the returning officer, and any candidate, or, in the absence of the candidate, a representative duly authorized by him in writing, shall have a right to be present at the time of counting.

"These words were substituted for the words "the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

*(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sec. 30.)*

(6) When the counting of the votes has been completed, the returning officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given to be elected.

(7) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the returning officer and the candidates and in such manner as he may determine.

(8) The returning officer shall without delay report the result of the election to the Executive Officer, and the name or names of the candidate or candidates elected shall be published in the <sup>1</sup>[*Official Gazette*].

Provincial  
Government to  
make rules  
regarding the  
conduct  
of election.

**30.** (1) Subject to the provisions of this Act the <sup>2</sup>[Provincial Government] shall make rules providing—

- (a) for the form and manner in, and the conditions on, which nominations may be made, and for the scrutiny of nominations;
- (b) for the appointment of a returning officer for each constituency and for his powers and duties;
- (c) for the appointment of polling stations for each constituency;
- (d) for the appointment of officers to preside at polling stations, and for the duties of such officers;
- (e) for the checking of voters by reference to the electoral roll;
- (f) for the manner in which votes are to be given, and in particular for the case of illiterate voters, or voters under physical or other disability;
- (g) for the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors;
- (h) for the scrutiny of votes;

<sup>1</sup>See foot-note 2 on p. 140, *ante*.

<sup>2</sup>See foot-note 1 on p. 140, *ante*.

[1923.]

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Secs. 31-33.)

(i) for the safe custody of ballot papers and other election papers, for the period for which such papers shall be preserved, and for the inspection and production of such papers; and may make such other rules regarding the conduct of elections as they think fit.

(2) In the exercise of the foregoing power rules may be made as to elections generally or any class of elections or in regard to constituencies generally or any class of constituency or any particular constituency.

**31.** (1) If any person is elected by more than one constituency, he shall, by notice in writing signed by him and delivered to the Executive Officer, within seven days from the date of the publication of the result of such election in the '[Official Gazette]', choose for which of these constituencies he shall serve, and the choice shall be conclusive. Multiple elections.

(2) When any such choice has been made, the Executive Officer shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-section (1), the Executive Officer shall forthwith declare the constituency for which such person shall serve and shall call upon the other constituency or constituencies concerned to elect another person or persons.

**32.** No person shall be appointed an election agent who is himself ineligible for election as being subject to any disqualification mentioned in section 22. Disqualification for being election agent. \*

**33.** (1) The appointment of an election agent, whether the election agent appointed be the candidate himself or not, may only be revoked in writing signed by the candidate and lodged with the officer receiving nominations and shall operate from the date on which it is so lodged. Revocation of appointment of election agent.

(2) In the event of such a revocation or of the death of any election agent, whether such event occurs before, during or within one month, or such longer period as the '[Provincial Government]' may allow, after the election, then the candidate shall appoint forthwith another election agent and declare his name in writing to the said officer.

<sup>1</sup>See foot-note 2 on p. 140, ante.

<sup>2</sup>See foot-note 1 on p. 140, ante.

## (Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Secs. 34-37.)

Return of  
election  
expenses.

34. (1) Within one month or such longer period as the <sup>1</sup>[Provincial Government] may allow after the date of the declaration of the election every candidate, either personally or through his election agent, shall cause to be lodged with the Executive Officer a return of his election expenses containing the particulars specified in Schedule V.

(2) Every such return shall contain a statement of all payment made by the candidate or by his election agent or by any persons authorized by the candidate to act on his behalf for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in Schedule V and shall be made on oath or affirmation before a Magistrate.

(4) The Executive Officer shall cause to be prepared and maintained a record showing the names of all candidates at every election of a Councillor under this Act and the date on which the return of election expenses of each candidate has been lodged with him.

Accounts of  
agents.

<sup>25</sup>  
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To section 36, add the following provisos, namely:—

“Provided that no person shall be eligible for appointment as a Councillor unless he is duly qualified to be an elector under section 20:

Provided further that an election shall be held for the purpose of filling the vacancies to be caused on the expiry of the term of office of such appointed Councillors.”

(Added by West Bengal Act I of 1947, section 12.)

[No. 43, dated the 5th June, 1949.]

Appointment  
by Provincial  
Government  
to make up  
the prescribed  
number.

Appointment  
of Councillors  
when to be  
made.

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In section 37, omit the words, brackets, letter and figure “under clause (b) of section 5 or”.

(Omitted by West Bengal Act I of 1947, section 13.)

[No. 43, dated the 5th June, 1949.]

<sup>1</sup>See foot-note 2 on p. 140, ante.

In section 39,—  
(a) for sub-section (1), substitute the following sub-section,  
namely:—

“(1) Notwithstanding anything contained in the Indian Oaths Act, 1878, every person who is a Councillor or an Alderman shall before taking his seat make, at a meeting of the Corporation, an oath or affirmation of his allegiance to the Constitution of India in the following form, namely:—

I, A.B. being a Councillor/an Alderman of the Corporation do solemnly swear (or affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter”,

(b) in sub-section (2), for the words “Any person who having been elected or appointed to be a Councillor or elected an Alderman”, substitute the words “Any Councillor or Alderman who”.

(Substituted by West Bengal Act I of 1947, section 14.)

[No. 43, dated the 5th June, 1949.]

within three months of the date on which his term of office commences, the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

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In section 39,—

(a) for the words “three years” occurring for the second time substitute the words “three months”, and

(b) after the words “three years” occurring for the third time insert the words “or three months, as the case may be,”.

(Substituted and inserted by West Bengal Act I of 1947, section 15.)

[No. 43, dated the 5th June, 1949.]

(Substituted by Ben. Act V of 1953, section 3.)

[No. 1, dated the 15th September, 1939.]

Provided that the said period may be extended by the Provincial Government after a general election at which meeting a quorum is present:

Provided that the said period may be extended by the <sup>1</sup>[Provincial Government] for a period not exceeding one year, by notification in the <sup>2</sup>[Official Gazette], if in special circumstances (to be specified in the notification) they so think fit.

40. A Councillor or an Alderman may resign his office by notifying in writing his intention to do so, to the Mayor and on the acceptance of the resignation by the Corporation his seat shall become vacant.

Resignation  
of Councillors  
or Alderman.

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>See foot-note 2 on p. 140, ante.



(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Secs. 41-43.)

Effect of subsequent disabilities.

41. If any person having been elected or appointed a Councillor, or elected an Alderman—

- (a) subsequently becomes subject to any of the disabilities stated in clauses (a), (c), (d), (e), (f) or (g) of sub-section (1) or in sub-sections (2), (3) or (4) of section 22, or
- (b) is declared by the <sup>1</sup>[Provincial Government], by notification in the <sup>2</sup>[Official Gazette] (issued after due inquiry in which the Councillor or Alderman concerned

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In section 41, for the words “elected or appointed a Councillor” substitute the words and figures “elected a Councillor or appointed a Councillor under section 36”.

(Substituted by West Bengal Act I of 1947, section 16.)

[No. 43, dated the 5th June, 1949.]

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In section 42 omit the words “elected or appointed under this Act”.

(Omitted by West Bengal Act I of 1947, section 17.)

[No. 43, dated the 5th June, 1949.]

employed in a professional capacity before the Corporation or any of its Committees or before any officer of the Corporation in any matter to which the Corporation is a party.

Removal of Councillor or Alderman.

42. The <sup>1</sup>[Provincial Government] may, if they think fit, on the recommendation of the Corporation, made after due inquiry in which the Councillor or Alderman concerned shall have the right to be heard, remove any Councillor or Alderman elected or appointed under this Act, if such Councillor or Alderman has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct.

Casual vacancies.

43. (1) When a vacancy occurs in the case of an elected Councillor or of an Alderman by reason of his seat becoming vacant under the provisions of section 38, <sup>3</sup>[or section 123F], or by reason of a declaration made

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>See foot-note 2 on p. 140, ante.

<sup>3</sup>These words figure and letter were inserted by s. 3 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933)

- (a) *omit* sub-section (2);
- (b) *in* sub-section (3), *omit* the words "or appointed";
- (c) *after* sub-section (3), *add* the following sub-section, namely:—
- "(4) The vacancy referred to in the second proviso to section 36 shall be deemed to be a casual vacancy and a person elected as a Councillor to fill that vacancy shall remain a Councillor till the first meeting of the Corporation held under section 59 after the next general election."
- (Omitted and added by West Bengal Act I of 1947, section 18.)
- [No. 43, dated the 5th June, 1949.]

Page ---

For section 44, *substitute* the following section, namely:—

"44. If any difficulty arises as to the preparation or publication of the first electoral rolls or the holding of the first elections after the commencement of the Calcutta Municipal (Amendment) Act, 1947, the Provincial Government may by order authorize any matter or thing to be done which appears to them necessary for the proper preparation or publication of the rolls or for the proper holding of the elections".

(Substituted by West Bengal Act I of 1947, section 19.)

[No. 43, dated the 5th June, 1949.]

[No. 1, dated the 15th September, 1939.]

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In sub-section (c) or section 45, *omit* the word "trienially" and *insert* the following note:—

(Omitted by Ben. Act V of 1939, section 4.)

[No. 1, dated the 15th September, 1939.]

~~The Provincial Government~~ *shall* date by a notification in the '[Official Gazette]' published not less than three months before such date.

"(4) Such elections shall be so fixed as to take place simultaneously in all the constituencies.

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>Sub-section (3) was inserted by s. 3(ii) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

<sup>3</sup>See foot-note 2 on p. 140, *ante*.

<sup>4</sup>Original sub-section (3) was renumbered as sub-section (4) by s. 3(i) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

<sup>5</sup>Original sub-section (4) including the proviso was omitted by s. 3(i), *ibid*.

(Ben. Act III)

*(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Secs. 46, 47.)**Disputes as to the validity of an election.*

Hearing of  
election petitions  
by High  
Court.

**46.** (1) If there is any dispute as to whether any person whose name is published under sub-section (8) of section 29 is qualified to be elected a Councillor, or if the validity of any election is questioned, whether by reason of the commission of any corrupt practice by a candidate or his agent or by any other person or by reason of the improper rejection of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the electoral roll may, at any time within eight days after the said publication, apply to the High Court:

Provided that no election shall be called in question on the ground that—

- (a) the name of any person qualified to vote has been omitted from the electoral roll, or
- (b) the name of any person not qualified to vote has been inserted in that roll, or
- (c) any direction given by any rule made under section 25, sub-section (2), or section 30 has not been obeyed.

(2) If the Court sets aside an election or declares an election to be null and void, a fresh election shall be held.

(3) Every election not called in question in accordance with the provisions of this section shall be deemed to have been to all intents a good and valid election.

Grounds for  
declaring  
election void.

**47.** (1) Save as hereinafter provided in this section, if, in any proceeding duly instituted under section 46, the High Court is of opinion that—

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or
- (b) any corrupt practice specified in Part I of Schedule II has been committed, or
- (c) the result of the election has been materially affected by any irregularity in respect of a nomination paper, or by the improper reception or refusal of a vote, or, save as is provided in section 46, by any non-compliance with the provisions of this Act or the rules made thereunder, or by any mistake in the use of any form annexed thereto,

the election of the returned candidate shall be void.

*(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Secs. 48-50.)*

(2) If in such proceeding the Court is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice specified in Part I of Schedule II which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Court is also of opinion that the candidate has satisfied it that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and
- (b) such candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at such election, and
- (c) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character, and
- (d) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then the Court may find that the election of such candidate is not void.

*Explanation.*—For the purposes of this sub-section “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

**48.** [*Operation of transitory provisions.*] *Rep. by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).*

**49.** [*Transitory provisions to have effect at elections prior to the fourth general election.*] *Rep. by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).*

**50.** [*Temporary substitution of Schedule IV for Schedule III.*] *Rep. by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).*

[Sec. 51-53.]

(Part II.—Chapter IV.—Municipal Officers and  
Servants.—Secs. 51-53.)

## CHAPTER IV.

## MUNICIPAL OFFICERS AND SERVANTS.

**51.** (1) The Corporation shall appoint proper persons, for such periods respectively as they think fit, to be Chief Executive Officer, Chief Engineer, Chief Accountant, Health Officer and Secretary, and shall fix the monthly salary and allowances to be paid to the persons so appointed.

The Corporation may also appoint, for such periods as they think fit, not more than two Deputy Executive Officers, and may fix their monthly salaries and allowances:

Provided that the appointment, salary, allowances and conditions of service of the Chief Executive Officer, Chief Engineer, Health Officer and Deputy Executive Officer or Officers and any action taken by the Corporation with a view to the termination of their appointment shall be subject to the approval of the [Provincial Government].

(2) The Corporation may appoint such other officers and servants for such periods, respectively, as they think fit, and may fix their salaries and allowances.

Power of the  
Executive  
Officer.

**52.** The Executive Officer shall be the principal executive officer of the Corporation, and all other officers and servants of the Corporation shall be subordinate to him. He shall have the same right of being present at any meeting of the Corporation, or of any Standing or Special Committee, and of taking part in the discussions thereat as if he were a member of the Corporation or of such Committee, and with the consent of the Mayor or the President of the meeting, as the case may be, he may at any time make a statement or explanation of facts, but he shall not vote upon, or make, any proposition at such meeting.

Prohibition  
of having  
share or  
interest in  
contract or  
employment  
with  
Corporation.

**53.** (1) No person shall be eligible for employment as a municipal officer or servant if he has, directly or indirectly, by himself or his partner or employer or employee, any share or interest in any contract or employment with, by, or on behalf of, the Corporation.

(2) Every person applying for employment as a municipal officer or servant shall, if he is related by a blood relationship to, or is closely connected by marriage

**(Part II.—Chapter IV.—Municipal Officers and  
Servants.—Secs. 54, 54A.)**

with, the Mayor or any Alderman or Councillor or any statutory officer of the Corporation, notify in writing such relationship or connection to the Corporation or municipal officer making such appointment, and if he fails to do so before he is appointed, his appointment to such post may at any time be terminated.

(3) If any municipal officer or servant acquires, directly or indirectly as aforesaid, any share or interest as aforesaid, otherwise than as such officer or servant, he shall cease to be a municipal officer or servant and his office shall become vacant.

(4) Nothing in the foregoing sub-sections shall apply to any such share or interest as, under clause (ii) or clause (iv) of proviso (a) to section 22, it is permissible for a Councillor or an Alderman to have without being thereby disqualified for being a Councillor or an Alderman.

**54.** (1) No person shall be eligible for any office mentioned or referred to in section 51 if he is seriously indebted to any person.

Indebtedness to  
disqualify for  
office under  
section 51.

(2) If any person holding any of the said offices becomes so indebted, the Corporation may, subject to the proviso to sub-section (1) of section 51, declare his office to be vacant.

**54A.** (1) Without the previous sanction of the [Provincial Government] in each case, no person shall be appointed as a municipal officer or servant if he has been convicted of an offence against the State or has been sentenced to imprisonment for a term of three months or more:

Disqualification  
for appointment  
as a municipal  
officer or  
servant.

Provided that this sub-section shall not apply to any person in respect of a sentence for an offence other than an offence against the State after the expiry of five years from the date of his release from the imprisonment imposed by the said sentence.

(2) Every candidate for appointment as a municipal officer or servant shall—

(a) declare in writing that he has not been convicted of an offence against the State or sentenced to imprisonment for a term of three months or more, or

<sup>1</sup>Sections 54A, 54B, 54C and 54D were inserted by s. 4 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

<sup>2</sup>See foot-note 1 on p. 146, ante.

(Part II.—Chapter IV.—Municipal Officers and  
Servants.—Sec. 54B.)

(b) state in writing the particulars of any such conviction or sentence,

and no person shall be appointed who has not made such declaration or statement.

(3) The declaration or statement referred to in sub-section (2) shall be submitted by the candidate to the authority making the appointment and shall be scrutinised by such authority before the appointment is made.

(4) Any authority who knowingly appoints a person in contravention of sub-section (1) shall, if any payment is made in consequence of such appointment, be deemed, for the purposes of this Act, to have authorized the making of an illegal payment.

(5) Any person who makes a declaration or statement under sub-section (2) which is false shall be punished with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to one year or with both. The '[Provincial Government]' may prescribe the agency by which and the manner in which prosecutions shall be instituted under this sub-section.

Dismissal of  
municipal  
officers and  
servants  
convicted  
of certain  
offences.

**54B.** (1) Any municipal officer or servant who, after the commencement of the Calcutta Municipal (Amendment) Act, 1933, is convicted of an offence against the State or sentenced either to rigorous imprisonment for any term or to simple imprisonment for a term of six months or more shall be deemed to be dismissed from service with effect from the date of his conviction and his office shall become vacant from such date.

Ben. Act  
XI of  
1933.

(2) If the conviction or sentence in respect of which any person is deemed to be dismissed under sub-section (1) is set aside by a competent court such person shall be deemed to have been suspended, and not dismissed, from service from the date of his conviction until the date on which the conviction or sentence is set aside.

(3) The '[Provincial Government]' may of their own motion or on receipt of an application from the person concerned by an order in writing exempt any person from the operation of sub-section (1) in respect of a conviction specified in such order and thereupon such person shall be deemed to have been suspended and not dismissed from service, from the date of his conviction until the date of such order.

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>See foot-note 1 on p. 179, ante.

[1923].

(Part II.—Chapter IV.—Municipal Officers and Servants.—Secs. 54C-56.)

(4) An application for exemption from the operation of sub-section (1) may be made to the <sup>1</sup>[Provincial Government] by the convicted person within two months after the date of his conviction. If the <sup>1</sup>[Provincial Government] fail to pass final orders thereon within three months after receipt of the application such person shall be exempt from the operation of sub-section (1) and shall be deemed to have been suspended, and not dismissed, from service from the date of his conviction.

<sup>2</sup>54C. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], exclude any class of municipal appointments, or any class of municipal officers or servants, specified in the notification, from the operation of all or any of the provisions of section 54A or of section 54B, respectively, either wholly or in respect of any class of convictions or sentences so specified.

Power to exclude certain municipal appointments, and municipal officers or servants from the operation of sections 54A and 54B.

Act XLV of 1860.

<sup>2</sup>54D. In sections 54A and 54B the expression "offence against the State" means an offence included in Chapter VI or Chapter VII of the Indian Penal Code and any attempt or conspiracy to commit, or any abetment of, any offence included in the said chapters.

Meaning of "offence against the State."

55. When a <sup>4</sup>[servant of the Crown] is appointed to be a municipal officer or servant, the Corporation shall pay, out of his salary, any contribution which may <sup>5</sup>[be required, under the conditions of his service under the Crown, to be paid by him or on his behalf] in respect of his pension or leave-allowances.

Contribution in respect of pension or leave allowances of servants of the Crown appointed to be municipal officers or servants.

56. The Corporation, by a resolution in favour of which not less than two-thirds of the Councillors and Aldermen voting have voted, may make rules—

Power to Corporation to make rules as to furnishing security and grant of leave of absence and allowances.

- (a) fixing the amount and nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>See foot-note 1 on p. 179, *ante*.

<sup>3</sup>See foot-note 2 on p. 140, *ante*.

<sup>4</sup>These words were substituted for the words "servant of the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>5</sup>These words were substituted for the words "for the time being be levied by the Government", *ibid*.



## (Part II.—Chapter IV.—Municipal Officers and Servants.—Sec. 57.)

- (b) regulating the grant of leave of absence; allowances, pensions, bonuses and gratuities to municipal officers and servants;
- (c) regulating the grant of compassionate allowances and gratuities to members of the families of deceased municipal officers and servants;
- (d) for establishing and maintaining a provident or annuity fund, and for compelling all or any of the municipal officers or servants to contribute to such fund, and for making supplementary contributions out of the municipal fund; and
- (e) for establishing and aiding in the establishment and maintenance of co-operative societies for the menials of the Corporation:

Provided that no pension, gratuity or compassionate allowance referred to in clauses (b) and (c) shall, save with the special sanction of the <sup>1</sup>[Provincial Government], exceed the sum to which <sup>2</sup>\* \* \* such officer or servant or his family would be entitled if the service had been service <sup>3</sup>[under the Crown in the Province]:

Provided also that the municipal officers and servants who were formerly in the Plague Department of the <sup>1</sup>[Provincial Government] shall be entitled to the benefits of the aforesaid provident or annuity fund and gratuities in respect of the period of their services in that department on their paying within six months from the commencement of this Act their share of contribution to the said fund for the said period in accordance with the rules hitherto in force.

Grant of pensions, gratuities, and compassionate allowances.

**57.** (1) The Corporation may, in accordance with the rules made under section 56, grant—

- (a) pensions, allowances, bonuses and gratuities to municipal officers and servants, and
- (b) compassionate allowances and gratuities to members of the families of deceased municipal officers and servants,

and may also supplement contributions to a Provident Fund in accordance with the said rules.

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>The words "under an" or "as of the Government of India for the time being" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>These words were substituted for the words "Government," *ibid.*

18.1.23

*(Part II.—Chapter V.—Conduct of business.—*

(2) For the purposes of this chapter the family of a municipal officer or servant shall be deemed to include his wife, his children, and his father, mother, brother or sister, dependent upon him for support.

CHAPTER V.

CONDUCT OF BUSINESS.

*Translation of business by the Corporation.*

58. (1) The Corporation shall meet not less than Meetings.  
once a month for the transaction of business.

(2) The Mayor or, in his absence, the Deputy Mayor may, whenever he thinks fit, and shall, upon a requisition made in writing by any ten Councillors or Aldermen, call a meeting of the Corporation.

59. The first meeting of the Corporation after a First meeting  
general election of Councillors shall be held as early as after general  
conveniently may be in the month of April next follow- election.  
ing such election and shall be convened by the Executive  
Officer.

60. A list of the business to be transacted at every Notice of  
meeting shall be sent to the address of each Councillor meetings and  
and Alderman resident in Calcutta, so that it may be business.  
in his hands not less than forty-eight hours before the  
time fixed for such meeting; and no business shall be  
brought before, or transacted at, any meeting other  
than the business of which notice has been so given:

Provided that any Councillor or Alderman may submit to a meeting any resolution going beyond the matters mentioned in the notice given of such meeting, if he has given not less than forty-eight hours' previous notice of his intention so to do, by leaving a copy of such resolution at the Municipal Office.

61. All acts authorized or required to be done by Vote of majority  
the Corporation, and all questions which may come decisive.  
before the Corporation for decision, shall, save as is in  
this Act otherwise provided, be respectively done and  
decided by a majority of the Councillors and Aldermen  
voting at the meeting before which the matter is  
brought.

*(Part II.—Chapter V.—Conduct of business.—  
Secs. 62-66.)*

**President at**

**62.** (1) The Mayor, or, in his absence, the Deputy Mayor, shall preside at every meeting of the Corporation, and shall have a second or casting vote in all cases of equality of votes.

(2) In the absence of the Mayor and Deputy Mayor, the Councillors and Aldermen present at any meeting shall choose one of their number to preside, who shall in case of equality of votes have a second or casting vote.

(3) The President of any meeting at which a quorum of the Councillors and Aldermen is present may, with the consent of a majority of the members present, adjourn the meeting from time to time and from place to place.

**Quorum.**

**63.** No business shall be transacted at any meeting unless a quorum of twenty members be present throughout the meeting:

Provided that, if at any meeting there is not a sufficient number of members present to form a quorum, the President of such meeting shall adjourn the meeting to such convenient time and place as he thinks fit; and the business which should have been brought before the original meeting, if there had been a quorum present, shall be brought forward and disposed of in the usual manner at the adjourned meeting, at which a quorum of fifteen members shall suffice.

**Declaration by President that a resolution has been carried or lost.**

**64.** At any meeting, unless a poll be demanded by at least five members, a declaration by the President of such meeting that a resolution has been carried or lost, and an entry to that effect in the minutes of proceedings shall, for the purposes of this Act, be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

**Poll and ballot.**

**65.** If a poll be demanded under section 64, the votes of all the members present who desire to vote shall be taken under the direction of the President of the meeting, and the result of such poll shall be deemed to be the resolution of the Corporation at such meeting:

Provided that the Corporation may, subject to such rules as may be made by them under section 66, resolve that any question or class of questions shall be decided by ballot.

**Power to Corporation to make rules.**

**66.** The Corporation may make rules for the conduct of business at their meetings.

*(Part II.—Chapter V.—Conduct of business.  
Secs. 67, 68.)*

*Contracts and Seal of Corporation.*

**67.** (1) The Corporation may enter into and perform all such contracts as they may consider necessary or expedient for carrying into effect the provisions of this Act.

Execution of contracts by the Mayor or Deputy Mayor on behalf of the Corporation.

(2) With respect to the making of such contracts the following provisions shall have effect, namely:—

- (a) every such contract shall be made on behalf of the Corporation by the Mayor or Deputy Mayor;
- (b) no contract shall be made by the Mayor or Deputy Mayor unless the same is previously sanctioned by the Corporation;
- (c) no contract involving an expenditure exceeding two and a half lakhs of rupees shall be made by the Mayor or Deputy Mayor unless the same is previously sanctioned by the Corporation and the <sup>1</sup>[Provincial Government].

(3) The foregoing provisions of this section shall apply to every variation or discharge of a contract as well as to an original contract.

**68.** (1) Every contract made by the Mayor or Deputy Mayor on behalf of the Corporation shall be entered into in such manner and form as would bind the Mayor or Deputy Mayor if such contract were made on his own behalf, except that the common seal of the Corporation shall be used (where necessary); and every such contract may in the like manner and form be varied or discharged.

Further provisions as to execution of contracts, and provisions as to seal of Corporation.

(2) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees shall be in writing, shall be sealed, and shall specify—

- (a) the work to be done or the materials or goods to be supplied, as the case may be,
- (b) the price to be paid for such work, materials or goods, and
- (c) the time or times within which the contract or specified portions thereof shall be carried out.

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

## (Part II.—Chapter V.—Conduct of business.—

## Sec. 69.)

(3) The common seal of the Corporation shall remain in the custody of the Secretary to the Corporation, and shall not be affixed to any contract or other instrument except in the presence of a Councillor or an Alderman, who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Councillor or Alderman shall be distinct from the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Corporation.

**Tenders.**

69. (1) Not less than seven days before the Corporation enter into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, they shall give notice by advertisement in local newspapers inviting tenders for such contract.

(2) In every case in which the acceptance of a tender would involve an expenditure exceeding one thousand rupees, the specifications, conditions and estimates, and all the tenders received shall be placed before the Corporation.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding two and a half lakhs of rupees, the Corporation shall submit to the '[Provincial Government]' the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) which they recommend for acceptance.

(4) The Corporation, or the '[Provincial Government]', as the case may be, may reject all or any of the tenders made under the provisions of this section.

(5) Notwithstanding anything contained in this section, the Corporation, by a resolution in favour of which not less than two-thirds of the Councillors and Aldermen voting have voted, may, for reasons which shall be recorded in their proceedings, enter into a contract involving an expenditure not exceeding five thousand rupees without inviting tenders, or without the acceptance of any tender which may have been received.

(Part II.—Chapter V.—Conduct of business.—  
Secs. 70, 71.)

70. The Corporation shall take sufficient security for the due performance of every contract into which they enter under this Act. Security for performance of contract.

*Standing Committees.*

71. (1) The Corporation may each year appoint Standing Committees and, by specific resolutions, delegate any of their functions, powers or duties to such Committees, and may also from time to time, by a like resolution, refer to them for inquiry and report, or for opinion, such subjects relating to the functions, powers or duties of the Corporation as the Corporation may think fit. Standing Committees.

(2) A Standing Committee shall not consist of more than twelve members, and no Councillor or Alderman shall, at the same time, be a member of more than two Standing Committees and the District Committee.

(3) Every Standing Committee shall conform to any instructions that may from time to time be given to them by the Corporation.

(4) The Corporation may at any time dissolve, or subject to the provisions of sub-section (2), alter the constitution of any Standing Committee, and may also at any time withdraw from any Standing Committee any of the functions, powers or duties delegated to them under sub-section (1).

(5) Every Standing Committee shall appoint two of their number to be their Chairman and Deputy Chairman:

Provided that no Councillor or Alderman shall, at the same time, be the Chairman or Deputy Chairman of more than one Standing Committee.

(6) In the absence of the Chairman or Deputy Chairman, the members of the Standing Committee present shall choose one of their number to preside over their meeting.

(7) When any matter is referred to a Standing Committee, the Corporation may fix a time within which the report of the Standing Committee thereon is to be submitted to the Corporation.

(8) All the proceedings of every Standing Committee shall be subject to confirmation or revision by the Corporation:

Provided that, if, in any of their functions, powers or duties to a committee under

(Part II.—Chapter V.—Conduct of business.—  
Secs. 72, 73.)

sub-section (1), the Corporation direct that the decision of the Standing Committee shall be final, then so much of the proceedings of the Standing Committee as relate to such functions, powers or duties shall not be subject to confirmation by the Corporation.

(9) The Corporation may make rules for regulating the conduct of business at meetings of Standing Committees and of Sub-Committees appointed by them.

**District Stand-  
Committee**

**72.** (1) The Corporation may from time to time divide Calcutta into such districts consisting of different wards as they may think fit and appoint a Standing Committee, to be called the District Committee, for each such district and delegate to such Committees such functions, powers or duties of the Corporation as the Corporation may think fit relating to matters affecting their respective districts, and may also from time to time, by specific resolution, refer to them for inquiry and report or for opinion such matters relating to such districts as the Corporation may think fit.

(2) Each such District Committee shall consist of all the Councillors for the several constituencies comprised in each district and any Alderman or other Councillor living within the district and expressing his willingness to serve on such Committee.

(3) The District Committee shall associate with themselves not more than three persons, residing within such district. Such persons shall be elected by the Committee every year in such manner as may be prescribed by rules made by the Corporation in this behalf. Such associated members shall hold office for one year and shall be entitled to vote.

**73.** (1) The Corporation shall appoint a Standing Committee, to be called the Primary Education Standing Committee to advise them in regard to all matters relating to primary education in Calcutta.

(2) Such Committee shall consist of not more than six Councillors or Aldermen and of such other persons (not exceeding three in number), as the Corporation may from time to time and for such period as they think fit, by a specific resolution, associate with the Committee.

(3) Persons so associated with the Committee shall have a right to vote at meetings of the Committee, and shall be deemed to be members thereof for all purposes during the said period.

33

*(Part II.—Chapter V.—Conduct of business.—*

*Secs. 74, 75.)*

**74.** (1) Any Standing Committee of the Corporation may appoint one or more Sub-Committees for any purpose referred to them which, in their opinion, can be more usefully carried out by a Sub-Committee.

Sub-committees  
of Standing  
Committees.

(2) A Sub-Committee may be appointed for such time and subject to such limitations and conditions as to report and otherwise as the Standing Committee appointing the Sub-Committee may from time to time think fit.

(3) No Sub-Committee shall continue to exist after the Standing Committee appointing it has ceased to exist.

(4) All proceedings of any Sub-Committee shall be subject to confirmation by the Standing Committee appointing it.

(5) It shall not be necessary for any of the members of a Sub-Committee to be a member of the Standing Committee appointing such Sub-Committee.

*Special Committees.*

**75.** (1) The Corporation may from time to time, by specific resolution, appoint a Special Committee to inquire into and report upon any matter (to be specified in such resolution) which may arise in connection with any of the functions, powers or duties of the Corporation and which is not at the time under consideration by a Standing Committee constituted under section 71.

Special  
Committees.

(2) The Corporation may also from time to time, by specific resolution, associate with any such Special Committee, for such period as they think fit, any persons, who are not Councillors or Aldermen, but whose assistance or advice is required for the purposes for which the Special Committee is appointed and such persons shall have a right to vote at meetings of the Special Committee, and shall be deemed to be members thereof for all purposes during the said period.

(3) The provisions of sub-sections (3), (4), (5) (excluding the proviso), (6), (7) and (8) (excluding the proviso) of section 71 shall, with all necessary modifications, be deemed to apply to every Special Committee appointed under this section and such Committee shall confine their inquiry to the matter specified in the resolution referred to in sub-section (1).

(4) The Corporation may make rules for regulating the conduct of business at meetings of Special Committees.



(Part II.—Chapter V.—Conduct of business.—  
Secs. 76-79.)

*Minutes and reports of proceedings.*

Keeping of  
minutes of pro-  
ceedings.

76. Minutes, in which shall be recorded the names of the members present at, and the proceedings of, each meeting of the Corporation, and of every Standing or Special Committee, respectively, shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be laid before the next ensuing meeting of the Corporation or of such Committee, as the case may be, and signed at such meeting by the Mayor or President thereof.

Inspection of  
minutes and  
reports of pro-  
ceedings.

77. The minutes referred to in section 76 and the full reports (if any) of the proceedings of meetings of the Corporation, shall, at all reasonable times, be kept open at the municipal office for the inspection of any Councillor or Alderman without charge, and of any other person on payment of a fee of eight annas.

Forwarding of  
minutes and  
reports of  
proceedings to  
Provincial  
Government.

78. The Executive Officer shall forward to the <sup>1</sup>[Provincial Government] a copy of the minutes of the proceedings of each meeting of the Corporation, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 76;

and, if the <sup>1</sup>[Provincial Government] so direct in any case, shall also forward a copy of all papers which were laid before the Corporation or the Standing or Special Committee, as the case may be, for consideration at such meeting;

and shall also forward to the <sup>1</sup>[Provincial Government], as soon as may be after such date, a full report of the proceedings of meetings of the Corporation, if any such report be prepared.

*Supplemental provisions.*

Validation of  
acts and pro-  
ceedings.

79. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in, or any defect in the constitution of, the Corporation, or any Standing or Special Committee,
- (b) any Councillor or Alderman having voted or taken part in any proceeding in contravention of proviso (b) to section 22, or
- (c) any defect or irregularity affecting the merits of the case.

<sup>1</sup>See foot-note 1 on p. 140, ante.

**III.—Chapter VI.—The Municipal Fund.—  
Secs. 80-82.)**

(2) Every meeting of the Corporation, or of any Standing or Special Committee, the minutes of the proceedings of which have been duly signed as prescribed in section 76, shall be deemed to have been duly convened and to be free from all defects and irregularity.

**PART III.**

**Finance.**

**CHAPTER VI.**

**THE MUNICIPAL FUND.**

**80.** There shall be one Municipal Fund, and it shall be held by the Corporation in trust for the purposes of this Act, subject to the provisions therein contained. Municipal Fund to be sole and to be held in trust.

**81.** (1) All moneys realized or realizable under this Act [other than fines levied by magistrates] shall be credited to the Municipal Fund. Credit of moneys to Municipal Fund.

(2) The balances standing at the credit of the several municipal funds of the Corporation at the commencement of this Act, and all interest and profits arising from any investment and from any transaction in connection with any of the said municipal funds shall be transferred to the said Municipal Fund.

**82.** All moneys payable to the credit of the Municipal Fund shall be forthwith paid into the Imperial Bank of India to the credit of an account which shall be styled "the account of the Municipal Fund of the City of Calcutta": Receipt of moneys and deposit in Bank.

Provided that, with the sanction of the <sup>2</sup>[Provincial Government], any moneys accruing from any of the several funds of the Corporation, which, at the commencement of this Act, are held in deposit by any bank

<sup>2</sup> inserted by Sch. IV of the Government of India (of Indian Laws) Order, 1937.

<sup>3</sup> See foot-note 1 on p. 146, ante.

(Part III.—Chapter VI.—The Municipal Fund.—  
Secs. 83, 84.)

or banks in Calcutta other than the Imperial Bank of India may be left in such deposit by the Corporation for such period as they think fit.

Drafts on the  
Municipal Fund.

83. (1) Subject to the provisions of sections 18, 118 and 119, no payment shall be made by the Imperial Bank of India out of the Municipal Fund except upon a cheque signed—

(a) by any two of the following persons, namely:—

- (i) the Executive Officer,
- (ii) the Deputy Executive Officer,
- (iii) the Secretary,
- (iv) the Chief Accountant, or,

(b) in the event of the illness or absence from Calcutta of any three of the person mentioned in clause (a), by the remaining one of such persons and any other person appointed in that behalf by the Executive Officer, or,

(c) in the event of the illness or absence from Calcutta of all the persons mentioned in clause (a), by any two other persons appointed in that behalf by the Executive Officer and approved by the Corporation.

(2) Except in the case of salaries up to three hundred rupees, which may be paid in cash, payment of any sum due by the Corporation exceeding one hundred rupees in amount shall be made by means of a cheque signed as provided in sub-section (1), and not in any other way.

(3) Payment of any sum due by the Corporation not exceeding one hundred rupees in amount may be made in cash, cheques signed as prescribed in sub-section (1) being drawn from time to time to cover such payments.

of  
Fund.

84. (1) The moneys from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying out the purposes of this Act, or of which the payment is duly directed or sanctioned by or under any of the provisions of this Act.

(2) Such moneys shall likewise be applied in payment of all sums payable out of the Municipal Fund under any other enactment for the time being in force.

b.]

*(Part III.—Chapter VI.—The Municipal Fund.—  
Sec. 85.)*

**85.** No payment of any sum out of the Municipal Fund shall be made unless the expenditure of the same is covered by a current budget-grant and a sufficient balance of such budget-grant is still available notwithstanding any reduction or transfer thereof which may have been made under section 95 or section 96:

Payments not to be made out of Municipal Fund unless covered by a budget-grant and balance is available.

Provided that this section shall not apply to payments made in the following classes of cases, namely:—

- (a) refunds of taxes and other moneys which are authorized by this Act;
- (b) repayments of moneys belonging to contractors or other persons and held in deposit and of moneys collected or credited to the Municipal Fund by mistake;
- (c) sums payable in any of the following circumstances—
  - (i) under section 18, under the orders of the <sup>1</sup>[Provincial Government];
  - (ii) under section 84, sub-section (2) <sup>2</sup>[or section 123E]; or
  - (iii) under the direction of any officer appointed under section 118 or section 119;
  - (iv) under the decree or order of a civil or criminal court passed against the Corporation;
  - (v) under a compromise of any suit or other legal proceeding or claim effected under section 537;
- (d) temporary payments under section 88 for works urgently required for the public service;
- (e) sums which are by or under section 252, sub-section (2), section 301, sub-section (2), section 304, sub-section (1), section 342, sub-section (2), section 389, sub-section (4), section 440, sub-section (2), section 442, sub-section (4), section 508, sub-section (3), section 520, clause (c) of sub-section (2) of section 535, or rule 2, sub-rule (6), of Schedule XVI, required or allowed to be paid by way of compensation;

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>These words and figure were inserted by s. 5 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

(Part III.—Chapter VI.—The Municipal Fund.—  
Secs. 86-88A.)

- (f) sums payable as compensation under any rule or by-law made under this Act; and
- (g) expenses incurred by the Corporation in the exercise of the powers conferred by section 447.

Duty of person signing cheque.

86. Before any person authorized under section 83 signs a cheque, he shall satisfy himself that the sum for which such cheque is drawn is either—

- (a) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget-grant, or
- (b) required for any payment referred to or specified in the proviso to section 85.

Procedure when money not covered by a budget-grant is expended under clauses (c), (e), (f) or (g) of section 85.

87. Whenever any sum is expended under clauses (c), (e), (f) or (g) of the proviso to section 85, the Corporation shall take such action under section 95 as may in the circumstances appear possible and expedient for covering the amount of the additional expenditure; and all sums expended under clause (g) of the said proviso shall be forthwith reported to the Corporation.

Temporary payments from the Municipal Fund for works urgently required for the public service.

88. (1) On the written requisition of a Secretary to the <sup>1</sup>[Provincial Government], the Corporation may at any time undertake the execution of any work certified by such Secretary to be urgently required for the public service, and for this purpose may temporarily make payments from the Municipal Fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration.

(2) The cost of all work so executed and of the establishment engaged in executing the same shall be paid by the <sup>1</sup>[Provincial Government] and credited to the Municipal Fund.

Grant in aid in

<sup>2</sup>88A. Subject to the provisions of section 91A and notwithstanding anything contained elsewhere in this Act no grant shall knowingly be made by the Corporation, without the previous sanction of the <sup>1</sup>[Provincial Government], for any purpose other than the purpose mentioned in that section to any institution which has after the commencement of the Calcutta Municipal

Ben. Act  
XI of  
1933.

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>Section 88A was inserted by s. 4 of the Calcutta Municipal Amendment) Act, 1933 (Ben. Act XI of 1933).

(Part III.—Chapter VI.—The Municipal Fund.—  
Secs. 89-90A.)

(Amendment) Act, 1933, taken into employment any person, or to any person, who has been convicted of an offence against the State or sentenced to imprisonment for a term of three months or more.

*Explanation 1.*—In this section the expression "offence against the State" has the meaning assigned to it in section 54D.

*Explanation 2.*—If any fact is communicated to the Chief Executive Officer, the Corporation shall, for the purposes of this section, be deemed to have knowledge of that fact.

89. (1) The Corporation shall pay from the Municipal Fund to the Commissioners of the Tollygunge Municipality two thousand six hundred and thirty-two rupees to compensate them for the expenditure incurred by them on local drainage within the area of the Ballygunge Pumping station and the High Level Outfall Sewer added to Calcutta.

Compensation to the Tollygunge and South Suburban Municipalities.

(2) From the commencement of this Act, the Corporation shall pay annually from the Municipal Fund for ten years to the Commissioners of the South Suburban Municipality the sum of eight thousand rupees, being approximately, at the commencement of this Act, one-half of the difference between the gross revenue obtained as rates and taxes from, and the amount expended on, that portion of the area known as the New Dock Extension Area which was formerly comprised within the said municipality and which forms part of the area added to Calcutta.

90. The Corporation shall, beginning from the third year after the commencement of this Act, spend annually for ten years a sum of not less than one lakh of rupees on the execution of original improvement works within the area which formed the Maniktala Municipality before the commencement of this Act [and] a sum of not less than a lakh of rupees on the execution of original improvement works within the area which formed the Cossipur-Chitpur Municipality at the commencement of this Act.

Special payment on improvements of the area which formed the Maniktala and Cossipur-Chitpur Municipalities.

90A. The Corporation shall beginning from the first day of April, 1932, pay annually for thirty years

Special payment to Garden Reach Municipality.

<sup>1</sup>This word was inserted by item No. 3(a) of the Sch. to the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932).

<sup>2</sup>The words "and a sum of not less than a lakh of rupees on the execution of original improvement works within the area which formed the Garden Reach Municipality at the commencement of this Act" were omitted by item No. 3(2) of the Sch. to the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932).

<sup>3</sup>Section 90A was inserted, by item No. 4 *ibid*.

(Part III.—Chapter VI.—The Municipal Fund.—  
Secs. 91-92.)

a sum of two and a half lakhs of rupees to the Commissioners of the Garden Reach Municipality as constituted by the Garden Reach Municipality Act, 1932.

Ben. Act  
III of 1932.

Expenditure on  
primary education.

**91.** The Corporation shall spend annually a sum of not less than a lakh of rupees for the purpose of promoting primary education among boys between the ages of six and twelve years and girls between the ages of six and ten years residing in Calcutta.

Grant in aid  
of primary  
education.

**91A.** In addition to the prohibition contained in section 88A and notwithstanding anything contained in this Act, no grant shall knowingly be made by the Corporation, without the previous sanction of the <sup>2</sup>[Provincial Government] for the purpose of promoting primary education among boys and girls to any institution which has after the commencement of the Calcutta Municipal (Amendment) Act, 1933, taken into employment any person, or to any person, who has been convicted of an offence against the State or sentenced to imprisonment for a term of three months or more.

Ben. Act  
XI of 1933.

*Explanation 1.*—In this section the expression “offence against the State” has the meaning assigned to it in section 54D.

*Explanation 2.*—If any fact is communicated to the Chief Executive Officer, the Corporation shall, for the purposes of this section, be deemed to have knowledge of that fact.

Investments of  
surplus money.

**92.** (1) Surplus moneys at the credit of the Municipal Fund, which cannot immediately or at an early date be applied to the purposes of this Act, may from time to time be deposited at interest or placed in current account in the Imperial Bank of India, or in any other bank or banks in Calcutta which may be approved by the <sup>2</sup>[Provincial Government], or invested in any of the securities or debentures mentioned in section 112, sub-section (1):

Provided that, where any money is placed in current account under this sub-section with any bank or banks other than the Imperial Bank of India, no cheques shall be drawn by the Corporation against such current account, except in favour of the Imperial Bank of India.

(2) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund.

<sup>2</sup>Section 91A was inserted by s. 7 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

<sup>1</sup>See foot-note 1 on p. 146, ante.

(Part III.—Chapter VII.—Budget Estimate.—  
Secs. 93, 94.)

CHAPTER VII.

BUDGET ESTIMATE.

93. The Executive Officer shall, on or before each tenth day of February, cause to be prepared and lay before the Corporation, in such form as the Corporation may from time to time approve,—

Executive Officer to lay before Corporation annual estimates of expenditure, receipts and balances and statement of proposed

- (a) an estimate of the expenditure which should, in his opinion, be incurred by the Corporation in the next ensuing year,
- (b) an estimate of receipts from all sources during the said year,
- (c) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the said year, and
- (d) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under this Act in the said year.

94. (1) The Corporation shall consider the estimates and proposals submitted by the Executive Officer under section 93 and shall thereafter—

Corporation to frame Budget Estimate.

- (a) on or before the twenty-second day of March in each year frame and adopt a Budget Estimate of income and expenditure for the ensuing year, and
- (b) determine, subject to the provisions of Part IV, the levy of the consolidated rate and taxes for the said year at such rates as are necessary to provide for the purposes mentioned in sub-section (2):

Provided that, except under section 18 or section 96, the rates so determined shall not be subsequently altered for the year for which they have been determined.

(2) In such Budget Estimate, the Corporation shall, among other things,—

- (a) make adequate and suitable provision for such services as may be required for the fulfilment of the several duties imposed by this Act,



(Part III.—Chapter VII.—Budget Estimate.—  
Secs. 95, 96.)

- (b) provide for the payment, as they fall due, of all instalments of principal and interest for which the Corporation may be liable in respect of loans contracted by them, and
- (c) allow for a cash balance at the end of the said year of not less than six lakhs of rupees.

Power to Corporation to alter budget-grants.

95. (1) The Corporation may from time to time during the year—

- (a) increase the amount of any budget-grant,
- (b) make an additional budget-grant to meet any special or unforeseen requirement arising during the same year,
- (c) transfer the amount or a portion of the amount of any budget-grant to the amount of any other budget-grant, or
- (d) reduce the amount of any budget-grant:

Provided as follows:—

- (i) due regard shall be had to all the requirements of this Act, and
- (ii) in making any increase or additional budget-grant, the estimated cash balance at the close of the year shall not be reduced below six lakhs of rupees.

(2) Every increase to a budget-grant and every additional budget-grant made in any year under sub-section (1) shall be deemed to be included in the Budget Estimate finally adopted for that year.

Power to Corporation to re-adjust income and expenditure during the year.

96. (1) If at any time during the year it appears to the Corporation that, notwithstanding any reduction of budget-grants that has been made under section 95, the income of the Municipal Fund during the same year will not suffice to meet the expenditure sanctioned in the Budget Estimate of that year, and to leave at the close of the year a cash balance of not less than six lakhs of rupees, then it shall be incumbent on the Corporation forthwith to sanction any measure which they may consider necessary for proportioning the year's income to the expenditure.

(2) For the purposes of sub-section (1), the Corporation may either diminish the sanction of expenditure for the year, so far as it may be possible to do with due regard to all the requirements of the Act, or have

of 1923.]

*(Part III.—Chapter VIII.—Loans.—Sec. 97.)*

recourse to supplementary taxation or to an increase of the rates, or adopt all or any of those methods:

Provided that the rates shall not be raised under this section beyond the maximum percentage prescribed under section 124, and that the supplementary taxation shall not be imposed unless two-thirds of the members of the Corporation present at a meeting have voted in favour of it.

CHAPTER VIII.

LOANS.

97. (1) The Corporation may, in pursuance of a resolution passed at a meeting, from time to time raise a loan, by the issue of debentures or otherwise on the security of the consolidated rate, or of all or any of the taxes, fees and dues authorized by this Act (or of both the said rate and all or any of the said taxes, fees and dues), of any sums of money which may be required—

Power to Corporation to borrow money.

- (a) for the construction of works under this Act, or
- (b) for the acquisition of land for the purposes of this Act, or
- (c) to pay off any debt due <sup>1</sup>[to the Crown], or
- (d) to repay a loan raised under this Act:

Provided as follows:—

- (i) no loan shall be raised without the previous sanction of the <sup>2</sup>[Provincial Government];
- (ii) the rate of interest to be paid for any loan, and the terms (as to the time and method of repayment, and otherwise) upon which any loan is to be raised, shall be subject to the approval of the <sup>3</sup>[Provincial Government];  
<sup>3</sup>[and]

<sup>1</sup>These words were substituted for the words "to the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 1 on p. 140, *ante*.

<sup>3</sup>This word was inserted by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

## (Part III.—Chapter VIII.—Loans.—Secs. 98-100.)

- (iii) the period within which a loan is to be repaid shall in no case exceed sixty years; <sup>1\*</sup>

1\*

(2) When any sum of money has been borrowed under sub-section (1),—

- (i) no portion thereof shall, without the previous sanction of the <sup>3</sup>[Provincial Government], be applied to any purpose other than that for which it was borrowed, and
- (ii) no portion of any sum of money borrowed under clause (a) of sub-section (1) shall be applied to the payment of salaries or allowances to any municipal officers or servants, other than those who are exclusively employed upon the works for the construction of which the money was borrowed.

Determination of sums to be borrowed.

98. The Corporation shall, at a meeting to be held on or before the twenty-second day of March in each year, after considering the Executive Officer's proposals in this behalf, determine, subject to the provisions of this Act, what sums of money (if any), shall be borrowed under section 97 in the next ensuing year.

Power of Corporation to open credit account with a bank.

99. Notwithstanding anything contained in section 97, whenever the borrowing of any sum has been sanctioned under that section, the Corporation may, instead of borrowing such sum or any part thereof from the public or any member thereof, take credit on such terms as may be sanctioned by the <sup>3</sup>[Provincial Government], from any bank on a cash account to be kept in the name of "the Municipal Corporation of the City of Calcutta" to the extent of such sum or part and, with the sanction of the <sup>3</sup>[Provincial Government], may grant mortgages of all or any of the property vested in the Corporation by way of securing the repayment of the amount of such credit or of the sums advanced from time to time on such cash account with interest.

Limit to borrowing powers.

100. Notwithstanding anything hereinbefore contained, the borrowing powers of the Corporation shall be limited so that the sums payable under this Act during any year for interest and for the maintenance of Sinking Funds [including the payments prescribed

<sup>1</sup>The word "and" was omitted by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1938).

<sup>3</sup>Proviso (iv) was omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 1 on p. 140, ante.

of 1923.]

(Part III.—Chapter VIII.—Loans.—Secs. 101-103.)

by sub-clause (c) of clause (I) of section 108], shall not exceed ten per cent. on the annual rateable value of land and buildings as determined under Chapter X.

**101.** (1) All debentures issued under this Act shall be in such form, and signed by such person, as the Corporation may from time to time prescribe, with the previous sanction of the <sup>1</sup>[Provincial Government],

Form, exchange, transfer and effect of debentures.

.. \* \* \* \* \*

(2) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Corporation may from time to time determine, a debenture in any other form so prescribed.

(3) The holder of any debenture issued by the Corporation under the authority of any prior enactment may obtain in exchange therefor, upon such terms as the Corporation may from time to time determine, a debenture in a form prescribed under sub-section (1).

(4) Every debenture issued by the Corporation under this Act shall be transferable in such manner as shall be therein expressed.

(5) The right to sue in respect of the moneys secured by any such debentures, or by any debentures issued by the Corporation under the authority of any prior enactment, shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

**102.** All coupons attached to debentures issued under this Act shall bear the signature of the Executive Officer; and such signature may be engraved, lithographed or impressed by any mechanical process.

Signature of coupons attached to debentures.

**103.** When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1872, the debenture or security shall be payable to the survivor or survivors of such persons:

Payment to survivors of joint payees.

IX of 1872.

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

<sup>1</sup>See foot-note 1 on p. 140, ante.

<sup>2</sup>The words "or (in the case of a loan raised out of India) the Government of India" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

## (Part III.—Chapter VIII.—Loans.—Secs. 104-107.)

Receipt by  
joint holder for  
interest or  
dividend.

**104.** Where two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Corporation by any other of such persons.

Repayment of

**105.** Every loan raised by the Corporation under section 97 shall be repaid within the time approved under proviso (ii) to sub-section (1) of that section, and by such of the following methods as may be so approved, namely :—

- (a) from a Sinking Fund established under section 106 in respect of the loan, or
- (b) partly from the Sinking Fund established under section 106 in respect of the loan, and (to the extent to which that Sinking Fund falls short of the sum required for the repayment of the loan) partly from money borrowed for the purpose under clause (d) of sub-section (1) of section 97.

Establishment  
and maintenance  
of Sinking Funds  
for such loans.

**106.** (1) Whenever the repayment from a Sinking Fund of a loan referred to in section 105, has been approved under proviso (ii) to sub-section (1) of section 97, the Corporation shall establish such a fund and shall pay into it every six months until the loan is repaid, a sum so calculated that, if regularly paid, it would, with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the loan at the time approved.

(2) The rate of interest, on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by the <sup>1</sup>[Provincial Government].

(3) A separate Sinking Fund shall be established in respect of each loan referred to in section 105.

to  
discontinue  
payments into  
Sinking Fund.

**107.** Notwithstanding anything contained in section 106, if at any time the sum standing at credit of the Sinking Fund established for the repayment of any loan is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the time approved under proviso (ii) to sub-section

<sup>1</sup>These words were substituted for the words "Government of India" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1923.]

(Part III.—Chapter VIII.—Loans.—Sec. 108.)

(1) of section 97, then, with the permission of the<sup>1</sup>[Provincial Government], further payments into such fund may be discontinued.

Ben. Act  
IV of 1914.

**108.** In respect of all loans raised by the Corporation between the first day of April, 1881, and the commencement<sup>2</sup> of the Calcutta Municipal (Loans) Act, 1914, the following provisions shall have effect, namely:—

Provisions  
regarding loans  
raised between  
the 1st April,  
1881, and the  
commencement  
of the Calcutta  
Municipal  
(Loans)  
Act, 1914.

(1) The Corporation shall maintain a Sinking Fund in respect of all such loans, and shall pay into such Fund the following sums:—

- (a) on the first day of January and the first day of July in each year, in respect of such of the said loans as were repaid before the thirty-first day of March, 1914, a sum representing four *per cent. per annum* on the amount of each of such loans, such payments to be continued, in the case of each of such loans, until the expiry of a period of forty-seven years from the date on which the loan was raised, and
- (b) on the first day of January and the first day of July in each year, in respect of such of the said loans as have not been repaid before the thirty-first day of March, 1914, a sum representing one *per cent. per annum* on the amount of each of such loans, until the loan is repaid, and
- (c) on the first day of January and the first day of July in each year, for a period of ten years, with effect from the first day of July, 1914, the sum of sixty-six thousand rupees.

(2) When any of the said loans hereafter falls due for repayment, it shall be repaid—

- (i) from the sums which have accumulated in the Sinking Fund maintained under clause (1) and in Sinking Fund A maintained before the commencement<sup>2</sup> of the Calcutta Municipal

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>The 11th March, 1914.

*The Calcutta Municipal Act, 1923.*

[Ben. Act III]

*(Part III.—Chapter VIII.—Loans.—Secs. 109, 110.)*

(Loans) Act, 1914, to the extent to which six-monthly payments of one *per cent. per annum* on the amount of any such loan would have accumulated at three *per cent.* compound interest from the date of its commencement, and

(ii) to the extent to which the sums, referred to in sub-clause (i) of this clause fall short of the sum required for repayment of the loan—from money to be borrowed by the Corporation for the purpose, for any period not exceeding the period by which the term of the original loan falls short of forty-seven years.

(3) A separate Sinking Fund shall be established in respect of each amount borrowed under sub-clause (ii) of clause (2) of this section, and the provisions of sections 106 and 107 shall apply to each such Sinking Fund.

Method of disposal of securities transferred to Corporation under Ben. Act IV of 1914.

**109.** All securities and cash jointly or severally held, before the commencement<sup>1</sup> of the Calcutta Municipal (Loans) Act, 1914, by the Secretary to the Government of Bengal in the Financial Department and the Accountant-General, Bengal, as Trustees for and in respect of Sinking Fund A referred to in sub-clause (i) of clause (2) of section 108 and transferred by them to the Corporation in pursuance of the provisions of that Act, shall be held by the Corporation as part of the Sinking Fund established under section 108 and all other securities and cash held in any other Sinking Fund established by the Corporation under the said Calcutta Municipal (Loans) Act, 1914, shall vest in the Corporation for the purpose of repayment of the loan in respect of which such Sinking Fund was established and such Sinking Fund shall be deemed to have been established under section 106.

Ben. Act IV of 1914.

Power to Corporation to consolidate their

**110.** (1) Notwithstanding anything contained in this Act, the Corporation may consolidate all or any of their loans, and for that purpose may invite tenders for a new loan (to be called "the Calcutta Municipal Consolidated Loan, 19 ") and invite holders of Municipal debentures to exchange their debentures for scrip of such loan.

<sup>1</sup>The 11th March, 1914.

of 1923.]

(Part III.—Chapter VIII.—Loans.—Secs. 111, 112.)

(2) The terms of every such consolidated loan, and the rates at which exchange into such consolidated loan shall be permitted, shall be subject to the previous approval of the <sup>1</sup>[Provincial Government].

(3) The period for the extinction of any such consolidated loan shall not, without the sanction of the <sup>1</sup>[Provincial Government], extend beyond the furthest date within which any of the loans to be consolidated would otherwise be repayable.

(4) The Corporation shall provide for the repayment of every such consolidated loan by establishing a Sinking Fund therefor.

(5) The provisions of sections 106 and 107 shall apply to each Sinking Fund established under sub-section (4):

Provided that, in calculating the sum to be paid into any such Sinking Fund in pursuance of section 106, any sums transferred to that fund in pursuance of proviso (i) or proviso (ii) to section 114 shall be taken into account.

**111.** The time for repayment of any money borrowed under this Act for the purpose of extinguishing any previous loan shall not, except with the express sanction of the <sup>1</sup>[Provincial Government], extend beyond the unexpired portion of the period for which such previous loan was sanctioned.

Time for repayment of money borrowed to extinguish previous loan.

**112.** (1) All moneys paid into a Sinking Fund shall as soon as possible be invested by the Corporation in—

Investment of Sinking Funds.

- (a) Government securities, or
- (b) securities guaranteed <sup>2</sup>[by the Central or any Provincial Government], or
- (c) Calcutta Municipal debentures, or
- (d) debentures issued by the Commissioners for the Port of Calcutta, or
- (e) debentures issued by the Trustees for the Improvement of Calcutta,

and shall be held by the Corporation for the purpose of repaying from time to time the debentures issued by it.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate Sinking Fund and invested in the manner prescribed by sub-section (1).

<sup>1</sup>See foot-note 1 on p. 202, ante.

<sup>2</sup>These words were substituted for the words "by the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.



## (Part III.—Chapter VIII.—Loans.—Secs. 113, 114.)

(3) Money standing at credit of two or more Sinking Funds may, at the discretion of the Corporation, be invested together as a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several Sinking Funds.

(4) Any investment made under this section may from time to time, subject to the provisions of sub-section (1), be varied or transposed.

Power to  
Corporation  
to reserve a  
part of loan—  
res for  
investment of  
Sinking Funds.

**113.** (1) For the purpose of investing any portion of the Municipal Fund (including Sinking Funds) the Corporation may, with the previous sanction of the [Provincial Government], reserve and set apart for issue at par to and in the name of the Corporation of Calcutta any portion of the debentures to be issued on account of any loan, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures to the Corporation, as aforesaid, shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation, of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

Application of  
Sinking Funds.

**114.** Until any loan is wholly repaid, the Corporation shall not apply the Sinking Fund established in respect of that loan to any purpose other than the repayment of that loan :

Provided that—

- (i) when any loan, or part thereof, which is raised after the commencement of this Act, is consolidated under section 110, the Corporation shall transfer to the Sinking Fund established for such consolidated loan the sum standing at credit of the Sinking Fund of the original loan, or if part only of a loan is consolidated, then such part of the sum standing at credit

of 1923.]

(Part III.—Chapter VIII.—Loans.—Secs. 115-117.)

of the Sinking Fund of the original loan as is proportionate to the amount of the original loan which is incorporated in the consolidated loan; and

- (ii) when any loan, or part thereof, which was raised before the commencement<sup>1</sup> of the Calcutta Municipal (Loans) Act, 1914, has been consolidated, the Corporation shall transfer such amounts as the<sup>2</sup> [Provincial Government] may direct from the Sinking Fund maintained under clause (I) of section 108, and from Sinking Fund A maintained before the commencement of the said Act to the Sinking Fund established for consolidated loans under section 110, sub-section (4).

Ben. Act  
IV of 1914.

**115.** (I) The Executive Officer shall, at the end of each year, prepare a statement showing—

Annual statement  
by Executive  
Officer.

- (a) the amount which has been invested during the year under section 112,
- (b) the date of the last investment made previous to the submission of the statement,
- (c) the aggregate amount of the securities then in the hands of the Corporation, and
- (d) the aggregate amount which has, up to the date of the statement, been applied under section 114, in or towards repaying loans.

(2) Every such statement shall be laid before a meeting of the Corporation and published in the<sup>3</sup> [Official Gazette].

**116.** All payments due from the Corporation for interest on and repayment of loans shall be made in priority to all other payments due from the Corporation.

Priority of  
payments for  
interest and  
repayment of  
loans over other  
payments.

**117.** (I) All Sinking Funds established under this Act shall be subject to annual examination by the Accountant-General, Bengal, who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

Annual  
examination of  
Sinking Funds.

<sup>1</sup>The 11th March, 1914.

<sup>2</sup>See foot-note 1 on p. 202, *ante*.

<sup>3</sup>See foot-note 2 on p. 140, *ante*.

*(Part III.—Chapter VIII.—Loans.—Sec. 118.)*

(2) The amount which should be at the credit of a Sinking Fund shall be calculate on the basis of the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

The value of securities belonging to a Sinking Fund shall be their current value unless they fall due for redemption at par or above before maturity of the Fund in which case their current value shall be taken as their redemption value, except in the case of Calcutta Municipal Debentures which shall always be valued at par, provided that the Corporation shall make good immediately any loss which may accrue on the actual sale of such debentures at the time of the repayment of the loan.

(3) The Corporation shall forthwith pay into any Sinking Fund any amount which the Accountant-General may certify to be deficient, unless the <sup>1</sup>[Provincial Government] specially sanction a gradual readjustment.

(4) If the cash and the value of the securities at credit of any Sinking Fund are in excess of the amount which should be at its credit, the Accountant-General shall certify the amount of such excess sum, and the Corporation may thereupon transfer the excess sum to the Municipal Fund.

(5) If any dispute arises as to the accuracy of any certificate made by the Accountant-General under sub-section (3) or sub-section (4), the Corporation may, after making the payment or transfer therein mentioned, refer the matter to the <sup>1</sup>[Provincial Government], whose decision shall be final.

Attachment of  
Municipal Fund  
for recovery of  
money borrowed  
from the  
Crown.

**118.** (1) If any money borrowed by the Corporation from <sup>2</sup>[the Crown], whether before or after the commencement of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the <sup>1</sup>[Provincial Government] may attach the Municipal Fund or any portion thereof.

(2) After such attachment, no person except an officer appointed in this behalf by the <sup>1</sup>[Provincial Government] shall in any way deal with the attached fund or

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>These words were substituted for the words "the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

*(Part III.—Chapter VIII.—Loans.—Chapter IX.—Accounts.—Secs. 119-121.)*

portion thereof; but such officer may do all acts in respect thereof which the Corporation or any Municipal Officer or servant might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the arrear and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the fund attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund before any part of the proceeds is applied to the satisfaction of the debt due to [the Crown].

**119.** If the Corporation fail to make any payment as required by section 117, sub-section (3), the <sup>2</sup>[Provincial Government] may attach the Municipal Fund or any portion thereof; and the provisions of section 118, sub-section (2), shall, with all necessary modifications, be deemed to apply.

Attachment of Municipal Fund for securing payment into Sinking Fund.

## CHAPTER IX.

### ACCOUNTS.

**120.** <sup>3</sup>[Subject to any rules made by the Provincial Government<sup>2</sup> in this behalf,] accounts of receipts and expenditure of the Corporation shall be kept in such manner and in such forms as they may from time to time prescribe.

Accounts to be kept.

**121.** (1) The municipal accounts shall be examined and audited from time to time by auditors appointed in that behalf by the <sup>3</sup>[Provincial Government].  
<sup>4</sup>[The Executive Officer shall submit all accounts to the auditors as required by them.]

Appointment and powers of municipal auditors.

<sup>1</sup>These words were substituted for the words "the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 1 on p. 140, *ante*.

<sup>3</sup>These words were inserted by s. 8 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

<sup>4</sup>These words were added by s. 9 (1) of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

(Part III.—Chapter IX.—Accounts.—  
Secs. 121A, 122.)

(2) The auditors so appointed may,—

- (a) by written summons, require the production before them <sup>1</sup>[or before any officer subordinate to them] of any document which they may consider necessary for the proper conduct of their audit;
- (b) by written summons, require any person accountable for, or having the custody or control of, any such document to appear in person before them <sup>1</sup>[or before any officer subordinate to them;] and
- (c) require any person so appearing before them <sup>1</sup>[or before any officer subordinate to them] to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement.

Penalty for failure to comply with summons or requisition.

<sup>2</sup>121A. Any person who neglects or refuses to comply with a summons or requisition made under section 121, shall be punished with fine which may extend to two hundred rupees in respect of each item included in the summons or requisition.

Reports and information to be furnished by auditors.

122. The auditors appointed under section 121 shall—

- (a) report to the Corporation any material impropriety or irregularity which they may observe in the expenditure, or in the recovery of moneys due to the Corporation, or in the municipal accounts;
- <sup>3</sup>(aa) report to the Corporation any loss or waste of money or other property owned by or vested in the Corporation which has been caused by neglect or misconduct, with the names of the persons who in their opinion are directly or indirectly responsible for such loss or waste;
- (b) furnish to the Corporation such information as the Corporation may from time to time require concerning the progress of their audit;<sup>4</sup>

<sup>1</sup>These words were inserted by s. 9 (2) of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

<sup>2</sup>Section 121A was inserted by s. 10, *ibid.*

<sup>3</sup>Clause (aa) was inserted by s. 11 (1), *ibid.*

<sup>4</sup>The word "and" was omitted by s. 11 (2), *ibid.*

of 1923.]

*(Part III.—Chapter IX.—Accounts.—  
Secs. 123-123B.)*

(c) as soon as may be after the completion of their audit, deliver to the Corporation a report upon the municipal accounts; <sup>1</sup>and

<sup>1</sup>(d) submit to the <sup>2</sup>[Provincial Government] duplicate copies of all reports referred to in clauses (a), (aa) and (c).

<sup>3</sup>123. (1) The Corporation shall forthwith remedy any defects or irregularities that may be pointed out by the auditors and shall report to the <sup>2</sup>[Provincial Government] the action taken by the Corporation:

Corporation to remedy defects and report to the Provincial Government.

Provided that if there is a difference of opinion between the Corporation and the auditors, or if the Corporation do not remedy any defect or irregularity within a period considered by the auditors to be reasonable, the matter shall be referred to the <sup>2</sup>[Provincial Government] within such time and in such manner as the <sup>2</sup>[Provincial Government] may prescribe by rule, and it shall be competent to the <sup>2</sup>[Provincial Government] to pass such orders thereon as they think fit. The orders of the <sup>2</sup>[Provincial Government] shall, save as provided in sections 123B and 123C, be final and the Corporation shall take action in accordance therewith.

(2) If, within any period fixed by an order made by the <sup>2</sup>[Provincial Government] under sub-section (1), the Corporation fail to comply with such order, the provisions of section 18 shall, with all necessary modifications, be deemed to apply, as if such order had been issued under section 17.

<sup>3</sup>123A. The Corporation shall publish the auditors' report referred to in clause (c) of section 122 with their replies to each item thereof within such time after the receipt of the said report as the <sup>2</sup>[Provincial Government] may prescribe by rule and shall make the same available for sale to the public.

Publication of auditors' report with replies.

<sup>3</sup>123B. (1) The auditors, after giving the person concerned an opportunity to submit an explanation, and after considering any such explanation, shall disallow every item of account contrary to law, and surcharge the same on the person making or authorizing

Power to auditors to disallow, surcharge and charge.

<sup>1</sup>The word "and" and clause (d) were added by s. 11 (3) of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

<sup>2</sup>See foot-note 1 on p. 140, ante.

<sup>3</sup>Sections 123, 123A, 123B, 123C, 123D, 123E, 123F, and 123G were substituted for the original section 123 by s. 12 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

(Part III.—Chapter IX.—Accounts.—  
Sec. 123C.)

the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person.

(2) Any Councillor, Alderman, or member of a Committee present at a meeting at which a motion or a resolution is passed authorizing expenditure which is subsequently disallowed under this section or authorizing any action which leads to expenditure afterwards so disallowed, shall be deemed to be a person authorizing the illegal payment if he votes for such motion or resolution, and all persons so voting shall be held jointly and severally responsible for the expenditure.

(3) The auditors shall state in writing their reasons for every disallowance, surcharge or charge made by them and shall serve in the manner prescribed by the <sup>1</sup>[Provincial Government] a certificate of the amount due and a copy of the reasons for their decision on the person against whom the certificate is made, and shall also furnish copies thereof to the Corporation and to the <sup>1</sup>[Provincial Government].

(4) The <sup>1</sup>[Provincial Government] may, of their own motion, within one year after receiving the copy of the certificate, set aside or modify any disallowance, surcharge or charge, and any certificate in respect thereof, made by the auditors.

Right of appeal  
to the Civil Court  
or to the  
Provincial  
Government.

<sup>2</sup>123C. Any person from whom any sum has been certified by the auditors under section 123B to be due may, within three months after he has been served with the certificate, apply to the Civil Court to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made, and the said Court after taking such evidence as is necessary may confirm, set aside, or modify the disallowance, surcharge or charge, and the certificate, with such orders as to costs as it may think proper in the circumstances; or in lieu of such application to the Court any such person may appeal to the <sup>1</sup>[Provincial Government] who shall pass such orders as they think fit, and the decision of the <sup>1</sup>[Provincial Government] on such appeal shall be final. Where a person referred to in section 123B, sub-section (2), who has been surcharged

<sup>1</sup>See foot-note 1 on p. 146, ante.

<sup>2</sup>See foot-note 3 on p. 211, ante.

(Part III.—Chapter IX.—Accounts.—  
Secs. 123D, 123E.)

as authorizing an illegal payment appeals to the  
<sup>1</sup>[Provincial Government] under this section the  
<sup>1</sup>[Provincial Government] shall set aside such sur-  
charge if it is proved to their satisfaction that such  
person voted for the motion or resolution in good faith.

*Explanation.*—In this section “the Civil Court” means the High Court at Fort William in Bengal, if and when it is specifically empowered by law to entertain an application under this section, and unless and until the said High Court is so empowered, means the Court of Small Causes of Calcutta.

**123D.** (1) Notwithstanding any application or appeal that may be made under section 123C, every sum certified to be due from any person by the auditors under this Act or, if the certificate has been modified under section 123B, sub-section (4), or under section 123C, the sum shown to be due from such person in the modified certificate shall be paid by such person to the Executive Officer within three months after he has been served with a certificate of the auditors or within such longer period as may be allowed by the <sup>1</sup>[Provincial Government]; any such sum, if not so paid, shall, notwithstanding the provisions of section 123F, be recoverable on an application made to the Court of Small Causes of Calcutta either by the Executive Officer or, if he fails to apply within such time as the <sup>1</sup>[Provincial Government] may prescribe by rule, by the auditors, in the same way as an amount decreed by that Court.

Payment of  
certified sums to  
be made within  
three months.

(2) Any sum or part of a sum so paid or recovered, the certificate in respect of which is set aside or modified under section 123B, sub-section (4), or under section 123C, shall, as the case may require, be wholly or partly refunded, in the prescribed manner, to the person who paid it.

**123E.** (1) All costs allowed by the Court against the auditors under the provisions of section 123C and all expenses incurred by the auditors in connection with an application under section 123D shall be paid out of the Municipal Fund.

Costs and  
expenses payable  
out of Municipal  
Fund.

(2) If the Corporation fail to pay any costs or expenses as required by sub-section (1) within a period to be fixed by the <sup>1</sup>[Provincial Government] in this behalf, the <sup>1</sup>[Provincial Government] may attach the Municipal Fund or any portion thereof; and the provisions of section 118, sub-section (2), shall, with all necessary modifications, be deemed to apply.

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

<sup>2</sup>See foot-note 3 on p. 211, *ante*.



(Part III.—Chapter IX.—Accounts.—  
Secs. 123F, 123G.)

Effect of  
non-payment  
of certified  
sums.

<sup>1</sup>**123F.** If any sum certified by the auditors under this Act to be due from a Councillor, Alderman or member of a Committee or from any officer or servant of the Corporation or, if the certificate has been modified under section 123B, sub-section (4), or under section 123C, any sum shown to be due from such person in the modified certificate is not paid by such person within the period of three months or such longer period as the <sup>2</sup>[Provincial Government] may allow under section 123D, he shall be deemed to have vacated his seat or to have been dismissed from the service of the Corporation, as the case may be, with effect from the date of an order to be made by the <sup>3</sup>[Provincial Government] in this behalf and shall not be eligible for re-election or re-appointment until the sum certified, or the sum shown to be due in the modified certificate, has been paid by him or the certificate in respect of such sum has been set aside under section 123B, sub-section (4), or under section 123C.

Power to  
Provincial  
Government  
to make rules.

<sup>1</sup>**123C.** (1) The <sup>2</sup>[Provincial Government] may make rules for the purpose of carrying into effect the provisions of this chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner and forms in which the accounts of the Corporation shall be kept;
- (b) the agency by which and the manner in which prosecutions shall be instituted under section 54A, sub-section (5);
- (c) the powers and duties of the auditors, the procedure to be followed by them and the times and places at which an audit may be conducted;
- (d) the period within which, and the manner in which, matters shall be referred to the <sup>3</sup>[Provincial Government] under section 123;
- (e) the period within which and the manner in which the auditors' report with the replies of the Corporation shall be published;
- (f) the manner in which and the price at which the auditors' report with the replies of the Corporation shall be offered for sale;

<sup>1</sup>See foot-note 3 on p. 211, *ante*.

<sup>2</sup>See foot-note 1 on p. 140, *ante*.

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*(Part IV.—Chapter X.—The Consolidated rate.—*

*Secs. 124-126.)*

- (g) the service under section 123B, sub-section (3), of certificates and copies of the reasons for the decisions of the auditors;
- (h) recording in minutes and proceedings of the meetings of the Corporation or of any Committee thereof the names of persons who vote for and against any motion or resolution that is adopted or passed and of persons who do not vote;
- (i) the period within which application shall be made by the Executive Officer under section 123D, sub-section (1); and
- (j) the manner in which refunds shall be made under section 123D, sub-section (2).

**PART IV.**

**Taxation.**

**CHAPTER X.**

**THE CONSOLIDATED RATE.**

*Imposition of consolidated rate.*

**124.** A consolidated rate not exceeding twenty-three *per cent.* on the annual valuation determined under this chapter may be imposed by the Corporation upon all lands and buildings in Calcutta for the purposes of this Act.

Power to Corporation to impose consolidated rate.

**125.** The amount of the said rate shall be fixed annually, in the manner provided in Chapter VII, with reference to the requirements of the Municipal Fund.

Amount of consolidated rate, how to be fixed.

*Exemptions.*

**126.** (1) Buildings used exclusively for purposes of public worship, and public burial or burning grounds or other places for the disposal of the dead duly registered under Chapter XXXI, shall be exempt from the consolidated rate;

Exemptions from consolidated rate.

(Part IV.—Chapter X.—The Consolidated rate.—  
Sec. 126.)

and the Corporation may either wholly or partially exempt from the consolidated rate any land or building used exclusively for purposes of public charity:

Provided that the following land and buildings shall not be deemed to be used exclusively for public worship or for purposes of public charity within the meaning of this section, namely,—

- (a) land or buildings in or on which any trade or business is carried on; and
- (b) land or buildings in respect of which rent is derived, whether such rent is or is not applied exclusively to religious purposes or purposes of public charity.

(2) Open spaces and parade grounds, which are the <sup>1</sup>[property of the Crown] and over which, when not required for military purposes, the public are allowed to have free access, shall be exempted from the consolidated rate, if <sup>2</sup>[they were so exempted immediately before the commencement of Part III of the Government of Indian Act, 1935, or if] the <sup>3</sup>[Provincial Government] so direct.

26 Geo. V, c. 2.

(3) The Corporation may exempt the owner of any hut from payment of the whole or any portion of the consolidated rate payable in respect of such hut, and in any such case they may exempt the owner of the land on which the hut is built, or not, as they think fit.

(4) The Corporation may, by resolution, exempt from the consolidated rate all lands and buildings the annual valuation of which, as determined under this chapter, does not exceed twenty rupees or such smaller sum as may be specified in such resolution:

Provided that no person shall be entitled to claim the benefit of such exemption if he owns or occupies more than one piece of land or more than one building and the aggregate annual valuation of all the lands or buildings owned or occupied by him exceeds twenty rupees or the said smaller sum.

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<sup>1</sup>These words were substituted for the words "property of Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were inserted, *ibid.*

<sup>3</sup>See foot-note 1 on p. 140, *ante*.

(Part IV.—Chapter X.—The Consolidated rate.—  
Sec. 127.)

127. For the purpose of assessing land and buildings to the consolidated rate,—

Annual value of land or building, how to be ascertained.

(a) the annual value of land, and the annual value of any building erected for letting purposes or ordinarily let, shall be deemed to be the gross annual rent at which the land or building might at the time of assessment reasonably be expected to let from year to year, less, in the case of a building, an allowance of ten *per cent.* for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent; and

(b) the annual value of any building not erected for letting purposes and not ordinarily let shall be deemed to be five *per cent.* on the sum obtained by adding the estimated present cost of erecting the building, less a reasonable amount to be deducted on account of depreciation (if any), to the estimated present value of the land valued with the building as part of the same premises.

Provided as follows:—

(i) the annual value of a *bustee* shall be deemed to be the gross annual rent at which the land contained within it, excluding the lands which have been left vacant for the purposes of any *bustee* street prescribed in or under a standard plan approved by the Corporation under Chapter XXII, might reasonably be expected to let from year to year, *plus* the gross annual rent at which the huts erected thereon might reasonably be expected to let from year to year, after deducting therefrom the rent of the land and an allowance of ten *per cent.* for the cost of repairs and for all expenses necessary to maintain such huts in a state to command such gross rent;

(ii) in calculating the value of any land or building under this section, the value of any machinery on such land or in such building shall be excluded, but all fixtures including lifts and electric and other fittings which add to the convenience of the building shall be valued, subject in the case of a lift to such deduction from the valuation, as the Executive Officer may think proper, on

[Ben. Act III]

(Part IV.—Chapter X.—The Consolidated rate.—  
Sec. 128.)

account of the cost of repairs to, maintenance of, and attendance on, such lift;

- (iii) if in the case of a building valued under clause (b), the annual value of which does not exceed five hundred rupees, any exceptional circumstances exist which render a valuation of five *per cent.* on the cost of erecting the building less depreciation, excessive, a lower percentage may be taken;
- (iv) when any building has been valued at a special percentage taken under proviso (iii), it may be re-valued at any time after the exceptional circumstances referred to in that proviso have ceased to exist.

Annual value  
of land or  
building  
belonging to  
the Calcutta  
Improvement  
Trust.

✓  
**128.** For the purpose of assessing land and buildings belonging to the Board of Trustees for the Improvement of Calcutta to the consolidated rate, the annual value of such land or building acquired by purchase or otherwise by the Board for the execution of an improvement scheme for the purposes of the Calcutta Improvement Act, 1911, which has been framed after the commencement of this Act, shall be deemed to be five *per cent.* on the cost of acquisition thereof, subject, on application made in this behalf by the Board, to revision by the '[Provincial Government]'; and such annual value shall be fixed from the date of the acquisition in each succeeding quarter on the basis of such cost, and shall, notwithstanding anything contained in section 131, remain in force until the streets (if any) laid out or altered and the open spaces (if any) provided in executing the scheme have vested in the Corporation under section 65 of the said Act.

Ben. Act  
V of 1911.

*Explanation.*—For the purposes of this section the cost of acquisition means—

- (a) in the case of land and buildings acquired under the Land Acquisition Act, 1894, as amended by the Calcutta Improvement Act, 1911, the value of the land and building as determined by the Land Acquisition Collector or by the Tribunal under the Calcutta Improvement Act, 1911, or by any other higher appellate authority;
- (b) in the case of land and buildings acquired by private treaty the purchase price of such land or buildings;
- (c) in the case of land and buildings taken for an improvement scheme under section 54 or section 55 of the Calcutta Improvement Act, 1911, such amount as may be determined under either of those sections; and
- (d) in any other case, including the erection of any new structures subsequent to the acquisition, such valuation as may be determined by the Executive Officer.

I of 1894.

<sup>1</sup>See foot-note 1 on p. 140, *ante*.

[1923.]

(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 129-131.)

**129.** Notwithstanding anything contained in sections 151 to 156, and subject to the provisions of section 128, when any land or building belonging to the Board is valued under section 128, no remission or refund of the consolidated rate assessed in respect of such land or building shall be allowed on the ground that it is unoccupied, but both the owner's and the occupier's share of the consolidated rate shall be payable in full as long as such land or building belongs to the Board and is assessed under section 128.

No remission for vacancy in the case of land or building belonging to the Board.

Ben. Act V  
of 1911.

**130.** When the Board has executed any scheme referred to in section 128, and the streets (if any) laid out or altered and the open spaces (if any) provided in executing such scheme have vested in the Corporation under section 65 of the Calcutta Improvement Act, 1911, the valuation made under section 128 shall terminate, and any land or building acquired by purchase or otherwise by the Board for the execution of such scheme and remaining vested in the Board at the termination of such valuation shall be revalued under section 127, and such revaluation shall remain in force for such period as remains unexpired in the ward in which it is included.

Revaluation of land or building vested in the Board after execution of an improvement scheme.

Ben. Act  
III of 1884.  
Ben. Act  
III of 1899.

**131.** (1) The valuation of any land or building situated in the several wards, the respective numbers, names and boundaries of which are specified in Schedule VII, which has been made before the commencement of this Act, whether under the Bengal Municipal Act, 1884,<sup>1</sup> or under the Calcutta Municipal Act, 1899, and which is in force at the commencement of this Act, shall remain in force and shall be deemed to be the valuation for the assessment of the consolidated rate on such land or building under this Act, until such time as the Executive Officer may make a fresh valuation of the lands and buildings in each such ward under this Act, and the annual value of such lands and buildings in each such ward shall, after such assessment has been made by the Executive Officer, have effect for a period of six years and may be revised thereafter by the Executive Officer at the termination of successive periods of six years.

Assessment of annual value, and duration of assessment.

<sup>1</sup>Repealed and re-enacted by the Bengal Municipal Act, 1932 (Ben. Act XV of 1932), and these references should now be construed as references to the latter Act.

(Part IV.—Chapter X.—The Consolidated rate.—  
Sec. 131.)

(2) Notwithstanding anything contained in sub-section (1), the following conditions shall apply in the several cases hereinafter specified, namely,—

**Bustees.**

- (a) *bustees* with the huts upon them may be valued annually at the discretion of the Executive Officer, and shall be so valued on the application of the owner; and when such *bustees* are not re-valued, the former valuation shall remain in force from year to year until a re-valuation is made;

**Unvalued lands and buildings.**

- (b) any land or building the valuation of which has been cancelled on the ground of irregularity, or which for any other reason has no annual value assigned to it under this Act, may be valued by the Executive Officer at any time during the currency of the period prescribed in respect of such land or building by sub-section (1), and such valuation shall remain in force, and the consolidated rate shall be levied according to it, for the unexpired portion of such period;

**Alterations and improvements.**

- (c) if, during the currency of any period prescribed by sub-section (1), any substantial alteration and improvement is made in any building the Executive Officer may cause such building to be re-valued; and such re-valuation shall remain in force, and the consolidated rate shall be levied according to it, until the expiration of the said period;

**New buildings.**

- (d) if, during the currency of any period prescribed by sub-section (1), any new building is erected, the Executive Officer may cause such building to be valued; and such valuation shall remain in force, and the consolidated rate shall be levied according to it, until the expiration of the said period;

**Depreciation.**

- (e) if, during the currency of any period prescribed by sub-section (1), the value of any building is reduced by reason of any substantial demolition or suffers depreciation from any cause proved to the satisfaction of the Executive Officer to have been beyond the control of the owner or occupier thereof, the Executive Officer shall as soon as practicable, on application being made to him in writing by the owner or occupier of such building,

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Sec. 131.)*

cause it to be re-valued; and such re-valuation shall remain in force from the beginning of the quarter next following the date of the application, and the consolidated rate shall be levied according to it, until the expiration of the said period;

- (f) if any building has been re-valued under clause (e) and any substantial alteration and improvement is made in the building during the currency of the period prescribed by that clause for the continuance of such re-valuation, the Executive Officer may cause a new valuation of such building to be made; and such new valuation shall remain in force, and the consolidated rate shall be levied according to it, until the expiration of the said period;

Alterations and improvements after revaluation.

- (g) if, during the currency of any period mentioned in sub-section (1), the ownership of any portion of any building or land be acquired by purchase or otherwise by the Board of Trustees for the Improvement of Calcutta, the Executive Officer shall, on the application of the Board, divide the assessment of such building or land in the following manner, namely,—

Acquisition by the Calcutta Improvement Trust.

- (a) the Executive Officer shall determine what proportion of the assessment of such building or land shall remain assessed upon the residue of the building or land not so acquired, and such proportion shall from the date of acquisition until the expiration of the aforementioned period be deemed to be the assessment of such residue of the building or land;

- (b) the valuation of the portion of the building or land acquired by the Board shall be fixed in the manner hereinbefore prescribed in section 128, and until such valuation comes into force the Board shall be held liable for the consolidated rate due for such portion, and the amount due shall be deemed to be the amount of rates paid on the whole building or land prior to acquisition, less the amount for which the residual owner is made liable under sub-clause (a) of this clause;



(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 132, 133.)

Transfer by the  
Calcutta  
Improvement  
Trust.

- (h) if, during the currency of any valuation mentioned in section 128 or section 130, any building or land, or portion thereof, vested in the Board be sold or otherwise transferred by the Board, except under section 65 of the Calcutta Improvement Act, 1911, the Executive Officer may cause the same to be re-valued under section 127, and such re-valuation shall be in force, and the consolidated rate shall be levied according to it, with effect from the quarter following the date of sale or transfer, until the expiration of the period mentioned in sub-section (1);

Ben. Act  
V of 1911.

Acquisition by  
the Calcutta  
Improvement  
Trust for the  
execution of an  
improvement  
scheme.

- (i) if any re-valuation be made under clause (h), the Board shall be entitled to a reduction in the total assessment fixed upon the buildings and lands acquired by it for the execution of an improvement scheme for the purposes of the Calcutta Improvement Act, 1911, to the extent of one-half of the annual valuation of the land or building, or portion thereof, thus transferred by the Board, from the quarter from which such re-valuation is fixed under section 127.

Separate  
valuation of land  
and huts  
in case of a  
*bustee*.

**132.** For the purpose of levying the consolidated rate in the case of a *bustee*, the Executive Officer shall cause the land contained within the *bustee* and the huts standing on it to be valued separately.

Assessment in  
case of land or  
building  
subdivided into  
separate shares.

**133.** If, during the currency of any period prescribed by sub-section (1) of section 131, the ownership of any land or building, or portion thereof, is subdivided into separate shares, the Executive Officer may, on the application of any of the co-owners, divide the assessment of such land, building or portion in the following manner, namely,—

- (i) if the ownership be subdivided into two or more shares without separate allotments, or if as the result of such subdivision there is a separate allotment of such land, building or portion into two or more separate portions, which are not entirely independent and capable of separate enjoyment, the Executive Officer may, if he thinks fit, apportion the assessment among the share-holders according to the value of their respective shares without assigning any separate number;
- (ii) if, as the result of such subdivision, there are separate allotments of such land, building

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Sec. 134.)*

or portion and if such allotments are made entirely independent and capable of separate enjoyment but not in conformity with the provisions of this Act, or of any rules or by-laws made thereunder, relating to buildings, the Executive Officer may, if he thinks fit, assess such portions separately after assigning to them separate numbers under this chapter:

Provided that by such separate assessment the total assessment for the entire premises shall not be increased;

(iii) if such separated portions of such land, building or portion are, or are made, entirely independent and capable of separate enjoyment in conformity with the provisions of this Act, or of any rules or by-laws made thereunder, relating to buildings, the Executive Officer shall assess each portion separately by assigning a separate number thereto:

Provided that by such separate assessment the total assessment for the entire premises shall not be increased:

Provided also that such apportionment or separation of the numbers and assessment, as the case may be, shall remain in force and the consolidated rate shall be levied accordingly until the expiration of the said period.

**134.** If any land or building, bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Executive Officer shall assess them, on amalgamation, after assigning to them one or more numbers, as the case may be, for the purposes of this chapter:

Assessment in case of amalgamation of premises.

Provided that no assessment on amalgamation of premises shall be made by the Executive Officer unless there is a cause for the re-valuation of any of such premises except on an application being made to him by the owner or owners thereof, in which case such assessment, if made, shall remain in force for the unexpired period of the valuation of the ward in which the said premises are included:

Provided also that the total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises amalgamated.

(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 135-138.)

Power to  
Executive Officer  
assess separately to  
houses  
and portions of  
buildings.

**135.** The Executive Officer may, in his discretion, assess any outhouse appurtenant to a building, or any portion of a building, separately from such building or the other portions of such building, as the case may be; and, when any outhouse or portion of a building is so separately assessed, the same shall, for the purposes of this chapter, be deemed to be a separate building.

Returns and  
inspection for  
purposes of  
valuation.

**136.** (1) The Executive Officer may, by written notice, require the owner or occupier of any land or building to furnish him, within a fortnight after the service of the notice, with returns of the measurements and of the rent or annual value of the land or building.

(2) Every owner and occupier on whom any such requisition is made shall be bound to comply with the same and to make a true return to the best of his knowledge or belief.

(3) The Executive Officer, or any person authorized by him in this behalf, may inspect, survey and measure such land or building.

Public notice  
and inspection of  
valuations.

**137.** (1) When the valuation, under section 131 of the lands and buildings in any ward has been completed, the Executive Officer shall cause the respective valuations to be entered in a list and give public notice of the place where such list may be inspected.

(2) Such notice shall be by advertisement in local newspapers, and also by placards posted up in conspicuous places throughout such ward.

(3) The Executive Officer shall also cause a placard to be posted up in each *bustee*, showing separately for each building situated in the *bustee* the valuation assigned to it in the valuation list.

(4) The person having custody of the valuation list shall permit any person to inspect it and to make extracts from it.

(5) No fee shall be charged for any such inspection; but there shall be payable, by all persons other than owners or occupiers of land in the ward and their agents, a fee of one rupee in respect of each entry extracted.

Notice when  
valuation made  
for the first time  
or increased.

**138.** The Executive Officer shall, in all cases in which any land, *bustee* or building is for the first time valued, or in which the valuation of any land, *bustee* or building previously valued is increased under section 131, give special notice thereof to the owner or occupier of the same; and when the valuation is so increased, the said notice shall contain a statement of the grounds of such increase.

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(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 139-142.)

✓ 139. (1) Any person who is dissatisfied with a valuation made under this chapter may deliver at the municipal office a written notice stating the grounds of his objection to such valuation. Notice of objection to valuation.

(2) Such notice shall be delivered within fifteen days after the publication of the notice referred to in section 137, or after receipt of the notice referred to in section 138, if such notice is received after the publication of the notice referred to in section 137:

Provided that the Executive Officer may, if he thinks fit, extend the said period of fifteen days to a period not exceeding one month.

140. (1) All such objections shall be entered, in a register to be maintained for the purpose; and, on receipt of any objection, notice shall be given to the objector of a time and place at which his objection will be investigated. Entry of objection and investigation thereof by Executive Officer or Deputy Executive Officer.

(2) At the said time and place the Executive Officer or a Deputy Executive Officer shall hear the objection, in the presence of the objector or his agent if he appears, or may, for reasonable cause, adjourn the investigation.

(3) When the objection has been determined, the order passed shall be recorded in the said register, together with the date of such order.

141. (1) Any person dissatisfied with the order passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the land or building, to the valuation of which the objection was made, is situated. Appeal to Small Cause Court.

(2) Such appeal shall be presented to such Court of Small Causes within thirty days from the date of the order passed under section 140, and shall be accompanied by an extract from the register of objections containing the order objected to.

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(3) The provisions of Parts II and III of the Indian Limitation Act, 1908, relating to appeals, shall apply to every appeal preferred under this section.

(4) No appeal shall be admitted under this section unless an objection has first been determined under section 140.

142. (1) Every valuation made by the Executive Officer under section 131 shall, subject to the provisions of sections 139, 140 and 141, be final. Valuations, when to be final.

(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 143, 144.)

(2) Every order passed by the Executive Officer or Deputy Executive Officer under section 140 shall, subject to the provisions of section 141, be final.

(3) An appeal from a decision made by the Court of Small Causes under section 141 shall lie to the High Court.

Keeping of  
municipal  
assessment-book.

✓ **143.** (1) The annual value fixed under this chapter shall be entered in one or more books to be kept for the purpose at the municipal office, wherein shall also be recorded—

- (a) the number of each premises;
- (b) the description of each premises;
- (c) the name and place of abode of the owner and the name of the occupier;
- (d) the amount of the valuation;
- (e) the amount payable quarterly on account of the consolidated rate;
- (f) the fact of exemption (if any) from payment of the said rate; and
- (g) such other particulars (if any) as the Executive Officer may from time to time direct.

(2) The particulars mentioned in sub-section (1) may be contained in as many books as the Executive Officer may from time to time determine, which shall together constitute the municipal assessment-book.

(3) When the name of the owner or occupier of any premises is not known, it shall be sufficient to designate him in the said assessment-book as "the owner" or "the occupier," as the case may be.

Entry of names  
of owners and  
occupiers in  
it-book.

**144.** (1) Any owner or occupier may at any time apply to the Executive Officer to have his name entered as owner or occupier, as the case may be, in the assessment-book; and the Executive Officer shall after giving the parties interested an opportunity of being heard, unless there is sufficient reason to refuse such application, cause such name to be entered in the assessment-book:

Provided that if such application is refused, the reason for the refusal shall be recorded in writing.

(2) Where there are gradations of owners or occupiers, and doubt exists as to who is entitled to have his name entered in the assessment-book as owner or occupier of the premises, the Executive Officer shall, after giving the parties interested an opportunity of

*(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 145, 146.)*

being heard, determine which of the several owners or occupiers is so entitled, and his decision shall remain in force for the purposes of this Act unless and until it is set aside by the order of a competent Court.

(3) No owner or occupier whose name is not entered in the assessment-book shall be entitled to object that any bill, notice of demand, warrant or other notice of any kind required by this Act to be served on the owner or occupier of any land or building, has not been made out in his own name.

**145.** Whenever the title in any land or building, or in any part or share of any land or building, is transferred, the transferee shall, within three months after the execution of the instrument of transfer, or, if no such instrument be executed, after the transfer is effected, give notice in writing of such transfer to the Executive Officer:

Notice of transfer of title, when to be given.

Provided that in the event of the death of the person in whom such title vests, the person to whom, as heir or otherwise, the title of the deceased is transferred by descent or devise, shall, within one year from the death of the deceased, give notice in writing of such transfer to the Executive Officer.

✓ **146.** (1) Notwithstanding anything contained in section 142, the Executive Officer may at any time amend the assessment-book—

Power to Executive Officer to amend assessment-book.

- (a) by inserting therein the name of any person whose name ought, in his opinion, to be so inserted, or by inserting any land or building which is, in his opinion, liable to the consolidated rate, or by inserting a valuation when the land or building liable to be valued has not been valued; or
- (b) by striking out the name of any person, or by striking out any land or building which is, in his opinion, not liable to the consolidated rate, or by reducing the amount of any valuation; or
- (c) by increasing the amount of the valuation of any premises where, in his opinion, such premises, at the time of the last general valuation, have been substantially undervalued by reason of misrepresentation or fraud:

Provided that, whenever it is proposed to make any amendment under clause (a), notice shall be given to

*(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 147, 148.)*

persons interested of a day, not being less than fifteen days from the service of the notice, on which it is intended to make the amendment:

Provided also as follows:—

- (i) no amendment shall be made under clause (c) except by the Executive Officer; and
- (ii) whenever it is proposed to make any such amendment, notice shall be given to the owner and occupier of the premises concerned of a day, not being less than fifteen days from the service of the notice, on which it is intended to make the amendment; and
- (iii) clause (c) shall not apply to any valuation of any premises determined on appeal to the Court of Small Causes or to the High Court as the case may be.

(2) If any amendment be made under clause (a) or clause (c) of sub-section (1), any person on whom a notice is to be served under the first or second proviso to sub-section (1), may object by written application to the Executive Officer, to be delivered at the municipal office three clear days before the day fixed in the said notice; and the provisions of sections 139 to 142 shall, with all necessary modifications, be deemed to apply to such objection.

Period for  
which revised  
valuations to  
continue in  
force.

**147.** When the valuation of any land or building is revised in consequence of an objection made under section 139 or section 146, sub-section (2), or an appeal is preferred under section 141, the revised valuation shall take effect from the quarter in which the first-mentioned valuation would have taken effect, and shall continue in force for the period for which the said first-mentioned valuation was made, and no longer.

Effect of entries  
in assessment-  
book.

**148.** (1) The assessment calculated on the valuation for the time being shown in the assessment-book shall be deemed to be the amount payable during the whole period for which the valuation is in force.

(2) When any amendment has been made in the assessment-book, such period shall, unless otherwise specially provided, be calculated—

- (a) from the commencement of the quarter next succeeding that in which the notice of objection was delivered under section 139 or section 146, sub-section (2); or,

of 1923.]

*(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 149-151.)*

- (b) if no such notice has been delivered, then from the commencement of the quarter next succeeding that in which such amendment was made:

Provided that the old valuation shall, notwithstanding that the period for which it was made may have expired, continue in force until the commencement of the quarter referred to in clause (a) or clause (b), as the case may be.

*Payment and recovery of the consolidated rate.*

**149.** One-half of the consolidated rate shall be payable by the owners of the lands and buildings, and the other half by the occupiers thereof; and each such instalment shall be payable on or before the fifteenth day of April, the fifteenth day of July, the fifteenth day of October and the fifteenth day of January for the quarters respectively commencing on the first day of each of those months.

Payment of consolidated rate.

**150.** If the annual value of any land or building, as determined under this chapter, exceeds in any case the amount of the rent payable to the owner for the land or building,

the owner may in such case, notwithstanding anything contained in any other law for the time being in force in Bengal, recover from the person who pays him rent the difference between the sum assessed as the owner's share of the consolidated rate in respect of such land or building and the sum at which such share would have been assessed had the land or building been valued only at the amount of rent actually payable to the owner,

Recovery by owner from tenant in certain cases of part of the owner's share of the consolidated rate.

and such difference shall be added to the rent and shall be recoverable as rent by the owner from the person liable for the payment of the rent.

**151.** When any land or building which has been assessed to the consolidated rate has remained unoccupied and unproductive of rent for a period of sixty or more consecutive days and a written notice of the facts has been given to the Executive Officer, he shall—

Refund of owner's share or consolidated rate for period of vacancy.

- (a) remit one-half of the owner's share of the consolidated rate due on account of such period, or,



(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 152-155.)

- (b) if the whole of such share has been paid, refund, on application made therefor, one-half of such share :

Provided that, when any land not being *wakf* or *debutter* property, which in the opinion of the Corporation is suitable for a building site, is not adequately utilized for such a purpose for a period of more than three years, the right to a remission of the consolidated rate for a vacancy in this respect, although the land is not occupied and is not productive of rent, shall cease on the expiration of such period, unless the Corporation exempt such land from the operation of this proviso on the ground that it is necessary for the land to be left open for the purpose of ventilation, or that in their opinion special circumstances exist which render it impracticable for the owner or lessee to utilize the land as a building site.

Refund of  
occupier's  
share of  
consolidated  
rate.

**152.** Any person who has, in respect of any land or building which has been assessed to the consolidated rate, paid the occupier's share of such rate for the whole of any quarter, shall be entitled to a refund of the rate so paid for any period in that quarter during which he did not occupy such land or building, provided that such person has given notice in writing of the facts to the Executive Officer.

Notice under  
section 151 or  
section 152,  
when to be  
delivered.

**153.** Every notice referred to in section 151 or section 152 shall be given during the period for which the land or building is unoccupied and unproductive of rent, or during the period of the vacancy, as the case may be; and such period shall be calculated from the date on which such notice is delivered at the municipal office :

Provided that, if the notice is delivered within seven days of the vacancy, the remission shall be allowed with effect from the date of the vacancy.

Application for  
refund, when to  
be made.

**154.** No refund of any amount shall be made under section 151 or section 152 unless the same is applied for within one year from the date on which the amount was paid.

Notice of  
re-occupation,  
when to be  
given.

**155.** Whenever any land or building which has been assessed to the consolidated rate and has been unoccupied is re-occupied, the person liable to pay the owner's share of the rate in respect of such land or building shall, within fifteen days from the date of re-occupation, give notice thereof in writing to the Executive Officer.

of 1923.]

(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 156-159.)

**156.** Whenever any land or building which has been assessed to the consolidated rate and has been unoccupied is re-occupied during any quarter, the occupier's share of the rate in respect of such land or building shall be payable from the date of such re-occupation.

Rate payable from date of re-occupation.

**157.** If any land or building is ordinarily occupied by more than one person holding in severalty, or is valued at less than two hundred rupees, the Executive Officer may, notwithstanding anything contained in section 149, levy the entire consolidated rate from the owner of such land or building.

Power of Executive Officer to levy entire rate from owner in certain cases.

**158.** When the entire consolidated rate is paid by the owner of any land or building under section 157, such owner may, if there be but one occupier of the land or building, recover from such occupier half of the rate so paid, and may, if there be more than one occupier, recover from each occupier half of such sum as bears to the entire amount of rate so paid by the owner the same proportion as the value of the portion of the land or building in the occupation of such occupier bears to the entire value of such land or building.

Recovery from occupier of portion of rate paid by owner under section 157.

**159.** (1) Notwithstanding anything contained in section 149, the entire consolidated rate leviable upon a *bustee* shall, after deducting therefrom a sum equal to one-eighth of such rate, be paid by the owner of such *bustee*:

Consolidated rate to be paid by owner of a *bustee*.

Provided that if the owner of the *bustee* is also the owner of the huts therein, no such deduction shall be made.

(2) Whenever the consolidated rate is leviable upon a *bustee*, the owner of the land contained within such *bustee* may recover from the owner of each hut standing thereon—

- (i) one-half of the consolidated rate payable in respect of the land on which the hut stands;
- (ii) the entire consolidated rate payable in respect of the hut.

(3) The sum deducted under sub-section (1) shall be retained by the owner of the *bustee*—

- (a) as a set-off against the expenses which may be incurred in collecting the portion of the rate recoverable under sub-section (2) from the owners of huts, and

(Part IV.—Chapter X.—The Consolidated rate.—  
Secs. 160-164.)

(b) as a commutation of all refunds in respect of huts which are vacant or which may be removed or destroyed during the continuance of the period for which the rate is leviable.

Consolidated rate not payable on new or enlarged huts in a *bustee*.

**160.** The consolidated rate shall not be payable on account of any new huts built or any huts enlarged in a *bustee* during the year for which the valuation of the *bustee* remains in force under clause (a) of sub-section (2) of section 131.

Power to Corporation to except *bustee* from section 159.

**161.** The Corporation may, by order, from time to time and for such period as may be specified in the order, except any *bustee* or any part of a *bustee* from the operation of section 159; and while any such order is in force in respect of any *bustee* or part thereof, the other provisions of this Act as to the payment and recovery of the consolidated rate shall apply to such *bustee* or part.

Requisition for name of owner.

**162.** The Executive Officer may, by written notice, require the occupier of any land or building to furnish him within fifteen days with the name and address of the owner of such land or building.

Occupier liable to owner's rate on failure to furnish owner's name and address.

**163.** If the occupier of any land or building refuses or neglects to comply with a notice served under section 162, he shall be liable to pay the rate payable by the owner on account of such land or building; and, on non-payment thereof, the Executive Officer may recover the same by distress and sale of any movable property found on the land or in the building:

Provided that no arrear of the rate which has remained due from the owner of any land or building for more than one year shall be so recovered from the occupier thereof.

Payment of consolidated rate, how affected by objections to valuation.

**164.** (1) When an objection to a valuation has been made under section 139, the consolidated rate shall, pending the final determination of the objection, be paid on the previous valuation.

(2) If, when the objection has been finally determined, the previous valuation is altered, then—

(a) any sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Corporation under this Act, and

(b) any deficiency shall be deemed to be an arrear of the consolidated rate and shall be payable and recoverable as such:

(Part IV.—Chapter XI.—Tax on carriages and animals.—Sec. 165.)

Provided that—

- (i) if any premises have, for the purposes of valuation under section 131, been for the first time valued or subdivided or amalgamated with any other premises, and an objection to the valuation thereof has been made under section 139, then the consolidated rate shall, pending the final determination of the objection, be paid on such valuation; and
- (ii) if, when such objection has been finally determined, such valuation is reduced, and if the consolidated rate has already been paid thereon, then the sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Corporation under this Act.

## CHAPTER XI.

### TAX ON CARRIAGES AND ANIMALS.

*Carriages and animals specified in Schedule VIII.*

**165.** (1) A tax, at rates not exceeding those respectively prescribed in Schedule VIII, shall be imposed upon all carriages and animals specified in that schedule and kept or used in Calcutta, except—

Tax on carriages and animals as specified in Schedule VIII.

- (a) carriages kept for sale by *bonâ fide* dealers in such carriages and not used for any other purpose;
- (b) carriages and animals belonging to [the Crown] and maintained—
  - (i) for the use of the Governor of Bengal or his staff or household; or
  - (ii) for police or military purposes;
- (c) carriages and animals maintained by any authority for the purposes of a fire-brigade;

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<sup>1</sup>These words were substituted for the words "the Government" by Sec. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part IV.—Chapter XI.—Tax on carriages and animals.—Secs. 166, 167.)

- (d) carriages and animals certified by the Commissioner of Police to be ordinarily used by the owners thereof for police purposes;
- (e) tram-cars employed in working street tramways, and exempted under any contract with the Corporation; and
- (f) horses which any person exempted from the operation of any municipal tax by an order issued under section 3 of the Municipal Taxation Act, 1881, is bound by the regulations of the service to which he belongs, to keep.

XI of 1881.

(2) The rates at which the said tax is to be imposed shall be determined annually in the budget estimate prepared under Chapter VII.

Tax, when payable.

**166.** The tax imposed under section 165 shall be payable half-yearly in advance.

Obligation to furnish

and payment and remission of tax.

**167.** (1) The owner or the person in charge of any carriage or animal liable to the tax imposed under section 165 shall, before the first day of May and the first day of November in each year,—

- (a) forward to the municipal office a written statement, signed by him, containing a description of all carriages and animals owned by him or in his charge which are so liable, and
- (b) at the same time pay to the Corporation the tax payable for the current half-year in respect of the carriages and animals specified in such statement.

(2) Any person who becomes the owner or takes charge during any half-year of any carriage or animal liable to the tax imposed under section 165 shall, within one week of his so becoming owner or taking charge,—

- (i) forward to the municipal office a statement of the kind mentioned in clause (a) of subsection (1), and
- (ii) at the same time, pay to the Corporation the tax payable in respect of such carriage or animal for the whole of the said half-year:

Provided that the tax payable in respect of any carriage or animal shall not be levied twice for the same half-year.

*rt IV.—Chapter XI.—Tax on carriages and animals.—Secs. 168-170.)*

(3) If the Corporation are satisfied—

- (i) that any carriage liable to such tax has not been used during the half-year, or
- (ii) that any carriage or animal liable to such tax has been kept for only a portion of the half-year,

they may refund or remit the whole of the tax payable in respect of such carriage or animal for the said half-year or such portion of such tax as they may think fit.

(4) For the purpose of this section a livery stable-keeper shall be deemed to be the owner or to be in charge of every carriage or animal in his stables.

**168.** The Corporation may from time to time, by written notice, require the occupier of any land or building to forward to them a statement, signed by such occupier, containing—

Power to Corporation to require occupier to furnish statements.

- (i) the name and address of every person who owns or is in charge of any carriage or animal which is kept in or on such land or building and is liable to the tax imposed under section 165, and

- (ii) a description of all such carriages and animals.

**169.** (1) When any person pays to the Corporation the amount of the tax imposed under section 165 which is payable in respect of all carriages and animals kept by him, the Corporation shall grant him a license to keep such carriages and animals during the current half-year, and no longer.

Grant of license on payment of tax.

(2) The Corporation may at any time grant a similar license for any previous half-year for which no license has been taken out, on payment of the amount due for that half-year:

Provided that the production of such a license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act.

**170.** The Corporation may, in their discretion, compound, for any period not exceeding one year, with any livery stable-keeper or other person keeping carriages for hire, or animals for sale or hire, for a certain sum to be paid in respect of the carriages or animals so kept by such persons in lieu of the tax imposed thereon under section 165.

Power to Corporation to compound with livery stable-keepers, etc., for tax.

*(Part IV.—Chapter XI.—Tax on carriages and animals.—Secs. 171-173.)*

Power to Corporation to require production of books and accounts by livery stable-keeper.

Power to Corporation to inspect any premises in pursuance of provisions of this chapter, and to seize and dispose of carriages and animals.

**171.** The Corporation may, by written notice, require any person who carries on the trade or business of a livery stable-keeper to produce, for their inspection, all books and accounts relating to such trade or business.

**172.** (1) The Corporation may inspect any stable, coach-house or other place for any of the purposes, or in pursuance of any of the provisions, of this chapter.

(2) If, on such inspection, any carriage or animal is found in respect of which no license has been obtained, the Corporation—

(a) may, if the owner or person in charge of such carriage or animal is unknown, take possession of such carriage or animal, and

(b) shall thereupon make such order as they may think fit respecting the custody of such carriage or animal.

(3) If any person, within one month from the date of such order, establishes, to the satisfaction of the Corporation, his claim to the possession of such carriage or animal, the Corporation shall order it to be delivered to him on payment of the tax due, together with such costs as the Corporation have reasonably incurred in taking possession of and keeping the same.

(4) If no person within the said period satisfies the Corporation that he is entitled to the possession of such carriage or animal, the Corporation may—

(i) cause the same to be sold for the recovery of the tax and costs referred to in sub-section (3), and

(ii) order the sale-proceeds, after deducting therefrom the said tax and costs (together with the costs of the sale), to be paid to any person who, within six months from the date of such sale, establishes, to the satisfaction of the Corporation, his claim to such proceeds.

*Dogs.*

Tax on dogs.

**173.** (1) A tax not exceeding five rupees *per annum* shall be imposed upon every dog kept in Calcutta:

Provided that the Executive Officer may in his discretion exempt from the tax any dog which appears to

of 1923.]

(Part IV.—Chapter XI.—Tax on carriages and animals.—Sec. 174.)

him to be less than six months of age until in his opinion it shall reach that age.

(2) Such tax shall be payable yearly in advance, and the rate at which it is to be imposed shall be determined annually in the Budget Estimate prepared under Chapter VII.

(3) The owner or person in charge of any dog liable to the tax imposed under sub-section (1) shall, before the first day of May in each year,—

- (a) forward to the municipal office a list, signed by him, of all dogs owned by him or in his charge which are so liable, and
- (b) at the same time pay to the Corporation the tax payable for the current year in respect of every such dog.

(4) Any person who, in the course of any year, becomes the owner or takes charge of any dog shall, within one week of his so becoming owner or taking charge, furnish a like statement and pay to the Corporation the tax payable for that year in respect of such dog:

Provided that the tax payable in respect of any dog shall not be levied twice for the same year.

**174.** (1) When any person has paid to the Corporation the tax payable in respect of any dog, the Corporation shall—

License and number-ticket for, and disposal of, dogs.

- (a) grant him a license to keep such dog during the current year, and
- (b) provide him with a number-ticket, the number whereof shall be specified in the said license.

(2) The owner or person in charge of any dog so licensed shall at all times cause the said number-ticket to be kept attached to the collar or otherwise suspended from the neck of the dog.

(3) Any dog which has no such number-ticket for the then current year so attached or suspended—

- (i) shall be presumed to be an unlicensed dog, and
- (ii) may be seized by the police or by any person duly authorized by the Corporation in this behalf, and detained until the tax due (if any) has been paid.

(4) If any person, within seven days from the date of such seizure, satisfies the Corporation that he is the owner or keeper of such dog, the Corporation shall



*(Part IV.—Chapter XII.—Tax on professions, trades and callings.—Sec. 175.)*

order it to be delivered to such person on payment of the tax due (if any), together with the costs incurred by the Corporation in keeping the dog.

(5) If, within the said seven days, no person satisfies the Corporation that he is the owner or keeper of the dog or pays the said tax and costs, the Corporation may cause the dog either—

(a) to be destroyed, or

(b) to be sold and the sale-proceeds, after deducting therefrom the said tax and costs (together with the costs of the sale) to be paid to any person who, within six months from the date of such sale, establishes, to the satisfaction of the Corporation, his claim to such proceeds.

## CHAPTER XII.

## TAX ON PROFESSIONS, TRADES AND CALLINGS.

Licenses to be  
taken out  
annually.

**175.** Every person who exercises or carries on in Calcutta, either by himself or by an agent or representative, any of the professions, trades or callings indicated in Schedule VI, shall annually take out a license and pay for the same such fees as is mentioned in that behalf in the said schedule:

Provided that the grant of such a license shall not be deemed to affect the liability of the licensee to take out a license under any other section of this Act:

Provided also that the Corporation may—

(a) remit or refund any portion of the fee so payable in respect of the exercise or carrying on of any profession, trade or calling, if they are satisfied that the profession, trade or calling has been exercised or carried on for six consecutive months only; or,

(b) when any person is, in the opinion of the Corporation, unable to pay the fee due for a license, exempt him from liability to take out such license, or declare that he shall be entitled to take out a license under a lower class than that under which he is chargeable according to the said schedule; or,

b] :

(Part IV.—Chapter XII.—Tax on professions, trades and callings.—Chapter XIII.—Scavenging-tax.—Secs. 176-179.)

- (c) in any other case, exempt any person from liability to take out a license or declare that any person shall be entitled to take out a license under a lower class than before.

**176.** (1) Every license mentioned in section 175 shall, in addition to the particulars required by section 498, sub-section (1), specify— Grant and contents of licenses.

- (a) the profession, trade or calling in respect of which it is granted; and  
(b) if the license is a local license as defined in rule 2 of Schedule VI, the place of business where the said profession, trade or calling is exercised or carried on.

(2) The Corporation may at any time grant a license for any previous year for which no license has been taken out, on payment of the fee which would have been payable therefor in the first instance:

Provided that the production of such a license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act.

**177.** The liability of any person to take out a license, and the class under which he shall be deemed bound to take out a license, shall be determined in accordance with the rules contained in Schedule VI. Liability and class, how to be determined.

✓ **178.** The Corporation may, by written notice, require the occupier of any building or place of business to forward to them within seven days a list, signed by such occupier, of the names of all persons exercising or carrying on any profession, trade or calling therein, and of their respective professions, trades and callings. Power to Corporation to require list of persons.

## CHAPTER XIII.

### SCAVENGING-TAX.

**179.** Every person who exercises in Calcutta any of the callings indicated in Part I of Schedule IX shall every half-year take out a license and pay for the same a fee, to be calculated— License to be taken out half-yearly, and fee to be paid therefor.

- (a) according to the average number of animals kept by him in the exercise of such calling, as determined from time to time by the Corporation, or

(Part IV.—Chapter XIII.—Scavenging-tax.—Chapter XIV.—  
Tax on petroleum.—Secs. 180, 181.)

- (b) in the case of the owner or occupier of a market, according to the average quantity of offensive matter and rubbish removed daily, as determined from time to time by the Corporation,

at the rates mentioned in Part II of the said schedule:

Provided that the Corporation may remit or refund the whole or any portion of the fee so payable by any person in respect of any half-year if they are satisfied that such person himself removes the offensive matter and rubbish accumulating on his premises or has exercised his said calling for a portion only of such half-year.

Grant and  
contents of  
licenses.

**180.** (1) Every license mentioned in section 179 shall, in addition to the particulars required by section 498, sub-section (1), specify—

- (a) the calling in respect of which it is granted; and  
(b) the animals in respect of which it is granted, or, in the case of a market, the average quantity of offensive matter and rubbish removed daily, as determined by the Corporation.

(2) Every such license shall be taken out not later than the first day of June or the first day of December in each year, as the case may be.

## CHAPTER XIV.

### TAX ON PETROLEUM.

Control by  
Corporation  
of storage and  
taxation of  
petroleum.

**181.** (1) The Corporation may, by notification in the <sup>1</sup>[*Official Gazette*] and with previous sanction of the <sup>2</sup>[Central Government], prohibit the introduction into Calcutta, for the purpose of storage therein, of petroleum intended for consumption elsewhere.

(2) No person shall introduce petroleum into Calcutta in contravention of any notification published under sub-section (1).

<sup>1</sup>These words were substituted for the words "*Calcutta Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "*Local Government*" by Sch. IV, *ibid.*

of 1923.]

(Part IV.—Chapter XIV.—Tax on petroleum.—Chapter.  
XV.—Tax on carts.—Secs. 182, 183.)

(3) When any such notification has been published, a <sup>1</sup>[cess] not exceeding four annas for every ten gallons may, with the sanction of the <sup>2</sup>[Provincial Government], be imposed in the manner provided by Chapter VII, on all petroleum introduced into Calcutta for consumption therein.

182. (1) All petroleum introduced into Calcutta in contravention of any notification published under section 181, sub-section (1), or of any by-law made under clause (2) of section 478, may be seized and confiscated. Confiscation of petroleum.

(2) All petroleum confiscated under this section shall become the property of the Corporation.

## CHAPTER XV.

### TAX ON CARTS.

183. (1) Every cart kept or used in Calcutta or the Municipality of Howrah except— Registration and numbering of carts.

- (a) carts which are the property of <sup>3</sup>[the Crown],
- (b) carts which are the property of the Corporation of Calcutta, of the Commissioners of the Municipality of Howrah or of any other municipality in the neighbourhood of Calcutta or Howrah, declared by notification under section 185 as being entitled to a share in the cart-registration fees,
- (c) carts which are kept at any place more than eight miles distant from Government House and are only temporarily and infrequently used in Calcutta or the Municipality of Howrah,
- (d) carts belonging to <sup>3</sup>[the Crown] and maintained—
  - (i) for the use of the household and establishment of the Governor of Bengal, or
  - (ii) for police or military purposes, and
- (e) carts maintained by any authority for the purposes of a fire-brigade,

<sup>1</sup>This word was substituted for the word "tax", by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "Local Government" by paragraph 4 (1), *ibid.*

<sup>3</sup>See foot-note 1 on p. 233, *ante*.

*The Calcutta Municipal Act, 1923.*

[Ben. Act 118.]

(Part IV.—Chapter XV.—Tax on carts.—  
Secs. 184, 185.)

shall be registered at the municipal office with the name and residence of the owner, and the place where the cart is ordinarily kept and shall have a number-plate, showing the number of such registration affixed thereto in such manner as the Corporation may direct.

(2) Such registration shall be made, and the said numbers assigned, half-yearly, upon such dates as the Corporation may appoint in that behalf.

(3) No person shall keep or be in possession of a cart not duly registered under this section.

(4) No owner or driver of a cart shall fail to affix thereto a number-plate as required by sub-section (1).

(5) The Corporation may refuse to register any cart which fails to conform to the by-laws made in regard to carts under this Act.

Fees for  
registration of  
carts.

**184.** <sup>1</sup>[(1) The fee payable for each registration of a cart shall be four rupees and an additional charge of one rupee shall also be payable in each case for the number-plate to be affixed to the cart:

Provided that, if such number-plate is returned to the municipal office in serviceable condition, the said additional charge shall be refunded or set off against the charge leviable for a new number plate.]

(2) The Corporation may, in their discretion, remit any portion of the fee leviable under sub-section (1) in respect of any cart if they are satisfied that the same has been kept or used for a portion of the half-year only.

(3) When the ownership of any registered cart is transferred during any half-year, it shall be re-registered in the name of the person to whom it has been transferred; and a fee of four annas shall be paid for every such re-registration.

Division of  
proceeds of  
registration  
fees, etc.

**185.** After deduction of the costs incurred on account of the registration of carts and the supply of number-plates under this chapter, the total net proceeds of the fees and charges received by the Corporation for such registration shall be divided between the Corporation of Calcutta and the Commissioners of the Municipality of Howrah and such other municipalities in the neighbourhood of Calcutta or of the Municipality of Howrah as the <sup>2</sup>[Provincial Government] shall declare, by notification in the <sup>3</sup>[*Official Gazette*], to be entitled

<sup>1</sup>Sub-section (1) was substituted for the original sub-section (1) by the Bengal Motor Vehicles Tax Act, 1932 (Ben. Act I of 1932).

<sup>2</sup>See foot-note 2 on p. 241, *ante*.

<sup>3</sup>See foot-note 1 on p. 240, *ante*.

of 1923.]

*(Part IV.—Chapter XV.—Tax on carts.—*

*Secs. 186, 187.)*

to a share in such proceeds, in such proportion as the  
<sup>1</sup>[Provincial Government] may from time to time  
determine.

**186.** (1) If any person owns or keeps any cart not  
duly registered under section 183, the Corporation may  
seize such cart, together with the animals (if any)  
drawing it, and detain the same in a place to be  
appointed by them in this behalf:

Seizure and sale  
of unregistered  
carts and  
application of  
proceeds of sale.

Provided that no cart shall be so seized while con-  
veying passengers or goods.

(2) If any cart or animals so seized be not claimed  
within ten days from the date of the seizure, it or they  
may be sold by auction by order of a Magistrate.

(3) The proceeds of such sale may be applied in  
defraying the expenses incurred on account of the  
seizure, detention and sale; and the surplus (if any), if  
not claimed within a period of sixty days from the  
date of such sale, shall be paid to the credit of the Muni-  
cipal Fund.

**187.** (1) No person shall drive a cart without carry-  
ing exposed to view a ticket granted by the Corporation  
bearing the registration number as driver.

No person to  
drive cart  
without a  
registration  
ticket.

(2) The Corporation shall maintain a register of  
cartmen, authorized to drive carts, which shall contain—

- (a) the number of the ticket,
- (b) the name, the father's name, the place of abode  
and age of the person to whom the ticket is  
granted,
- (c) the description of cart such person is authorized  
to drive, and
- (d) the date on which the ticket is granted.

(3) No cartman shall use or wear a ticket granted  
to him under this section if the number thereon has  
become indistinct or obliterated, or shall for the purpose  
of this section use or wear any ticket resembling or  
intending to resemble a ticket granted under this sec-  
tion, or wear a ticket granted to another cartman.

(4) The Corporation shall, upon the application of  
any driver of a cart whose ticket has become indistinct  
or obliterated, supply such driver with a new ticket  
upon payment of a fee of not more than two annas, or  
when they are satisfied that a ticket has been lost, may  
supply a new ticket on payment of a like fee.

<sup>1</sup>See foot-note 2 on p. 241, ante.

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Secs. 188-191.)

## CHAPTER XVI.

### RECOVERY OF THE CONSOLIDATED RATE AND OTHER TAXES.

Saving of other chapters.

**188.** The provisions of this chapter shall be deemed to be in addition to, and not in derogation of, any powers conferred by or under other chapters of this Act for the collection or recovery of the consolidated rate and other taxes.

#### *The consolidated rate.*

Presentation of bills.

**189.** (1) When the consolidated rate or any instalment thereof is due, the Corporation shall, with the least practicable delay, cause to be presented to the person liable a bill for the sum due.

(2) Every such bill shall specify the period for which, and the premises in respect of which, the rate is charged.

(3) When any person is liable for the consolidated rate on account of more premises than one, the Corporation may charge to him in one or several bills, as they may think fit, the several sums payable by him as such rate, on account of such premises:

Provided that if such person, by written notice to the Corporation, requests to be furnished with separate bills for such sums, the Corporation shall comply with such requests in respect of all payments on account of the said rate for which such person becomes liable after receipt by the Corporation of such notice.

Notice of demand.

**190.** (1) If the amount for which any bill has been presented under section 189 is not paid within seven days from such presentation, into the municipal office or to a municipal officer appointed to receive the same, the Corporation may cause to be served upon the person liable a notice of demand in the form in Schedule X, or in a form to the like effect.

✓ (2) For every such notice of demand a fee of such amount, not exceeding one rupee, as may in each case be fixed by the Corporation, shall be payable by the said person, and the said amount shall be included in the costs of recovery.

Distrainment in Calcutta.

**191.** (1) If the person liable for the payment of the consolidated rate does not, within seven days from the service of a notice of demand under section 190, pay the sum due, or show sufficient cause to the satisfaction of the Corporation for non-payment of the same,

of 1923.]

*(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Secs. 192, 193.)*

such sum, with all costs of recovery, may be recovered under a warrant in the form in Schedule XI, or in a form to the like effect, to be issued by the Corporation—

- (a) by distress and sale of any movable property belonging to such person, or
- (b) if such person be the occupier of any premises in respect of which the sum is due, by distress and sale of any movable property found on the said premises:

Provided that, when the premises in respect of which the default is committed are a place of business, and the movable property distrained under clause (b) is shown to the satisfaction of the Corporation to have been left there (by some person other than the person referred to in that clause) for repairs or safe custody in the ordinary course of business, it shall be released.

(2) The movable property of any person liable for the payment of any sum, for the recovery of which a warrant has been issued under sub-section (1), may be distrained wherever the same may be found in Calcutta.

(3) For every warrant issued under this section, a fee shall be charged at the rate mentioned in that behalf in Schedule XII, and the amount of the said fee shall be included in the costs of recovery.

**192.** The Corporation may, in their discretion, remit the whole or any part of any fee chargeable under section 190, sub-section (2), or section 191, sub-section (3).

Power to Corporation to remit certain fees.

**193.** Any officer charged with the execution of a warrant of distress issued under section 191, may, if authorized by a general or special order in writing by the Corporation, between sunrise and sunset break open any outer or inner door or window of a building in order to make the distress—

Power to officer to break open door or window.

- (a) if he has reasonable ground for believing that such building contains property which is liable to such distress; and
- (b) if, after notifying his authority and purpose, and duly demanding admittance, he cannot otherwise obtain admittance:

Provided that such officer shall not enter, or break open the door of, any apartment appropriated to the use of females, until he has given not less than three hours' notice of his intention and has given such females an opportunity to withdraw.



[*Ben. Act III*](Part IV.—Chapter XVI.—*Recovery of the consolidated rate and other taxes.*—Secs. 194-198.)

Officer executing warrant to make inventory and notice of sale.

**194.** The officer charged with the execution of a warrant of distress issued under section 191, shall forthwith make in the presence of two witnesses an inventory of the movable property which he seizes under such warrant, and shall at the same time give a written notice, in the form in Schedule XIII, or in a form to the like effect, to the person in possession thereof at the time of seizure, that such property will be sold as therein mentioned.

Power to said officer to take away property if forcible removal apprehended.

**195.** If there is reason to believe that any property seized under a warrant of distress issued under section 191 is likely, if left in the place where it is found, to be removed by force, the officer executing the warrant may take it to the municipal office or to any place appointed by the Corporation.

Distresses to be proportionate to sum distrained for.

**196.** The amount of property seized in any distress made under this Act shall not be disproportionate to the amount of the arrears due.

Sale and disposal of proceeds.

**197.** (1) If a warrant of distress issued under section 191 is not in the meantime suspended by the Corporation or discharged, the movable property seized thereunder shall, after the expiry of the period mentioned in the notice served under section 194, be sold by order of the Corporation.

(2) All sales of property under this section shall, so far as may be practicable, be regulated by the procedure for the time being in force in the Court of Small Causes of Calcutta with respect to sale after distress.

(3) No municipal officer or servant shall directly or indirectly purchase any property at any such sale.

(4) The Corporation shall apply the proceeds of every such sale, or such part thereof as shall be requisite, in discharge of the sum due and of the costs of recovery.

(5) The surplus (if any) of such proceeds shall be forthwith credited to the Municipal Fund; but, if the same be claimed by written application to the Corporation within three years from the date of the sale, a refund thereof shall be made to the person who was in possession of the movable property at the time of its seizure.

(6) Any such surplus not so claimed shall be the property of the Corporation.

Power to  
to issue  
fresh warrant  
when sale-  
proceeds  
insufficient.

**198.** (1) If the proceeds of 197 are not sufficient to cover with the costs of recovery, the fresh warrant of distress or in a form to the like balance due and for all

y sale under section sum due, together rtion may issue a in Schedule XI, the recovery of the costs thereof.

*(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Secs. 199-201.)*

(2) The provisions of sections 191 to 197, inclusive, shall, with all necessary modifications, be deemed to apply whenever a warrant is issued under sub-section (1).

**199.** (1) If the sum due from the owner of any land or building on account of the consolidated rate remains unpaid after notice of demand has been duly served upon him the Corporation may cause a notice of demand to be served upon the occupier of such land or building, or upon any of his sub-tenants for the time being thereof.

Recovery of owner's share of rate from occupier, or his sub-tenants, and deduction of amount from rent.

(2) If such occupier or any of such sub-tenants fails within fifteen days from the service of such notice to pay the amount therein demanded, the said amount may be recovered from him by distress and sale under the provisions of this chapter.

(3) No arrears of the owner's share of the consolidated rate shall be recovered from any occupier or sub-tenant under this section if it has remained due for more than one year or if it is due on account of any period during which such occupier or sub-tenant was not in occupation of the land or building in respect of which the rate is due.

(4) If any sum is paid by or recovered from any occupier or sub-tenant of any land or building under this section, he shall be entitled to deduct the same from the rent payable by him in respect of such land or building for the period for which the arrear of consolidated rate was due, or for any subsequent period.

**200.** The purchaser of—

(a) any land or building, or,

(b) any share, divided or undivided, in any land or building,

Liability of purchaser for vendor's share of consolidated rate.

in respect of which any sum is due at the time of purchase on account of the owner's share of the consolidated rate, shall be liable for the said sum:

Provided that such purchaser shall not be liable for any sum so due for any period exceeding one year prior to the date of the purchase.

**201.** (1) When a warrant of distress has been issued against any person under section 191 or section 198—

Execution of distress warrant outside Calcutta.

(a) if no sufficient movable property belonging to the said person can be found in Calcutta, or,

*The Calcutta Municipal Act, 1923.*

[*Ben. Act-188*]

*(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Secs. 202, 203.)*

- (b) when the said person is the occupier of premises in respect of which the consolidated rate is due, if no sufficient movable property can be found on such premises,

the Corporation may issue a warrant, to any Magistrate in Bengal without Calcutta, for the distress and sale of any movable property belonging to the said person within the jurisdiction of such Magistrate.

(2) Any Magistrate to whom a warrant is so issued shall—

- (i) endorse the same and cause it to be executed, and  
(ii) remit the proceeds of the sale under such warrant to the Corporation.

(3) Such proceeds shall be dealt with under the provisions of section 197.

**Distraint not unlawful for want of form.**

**202.** No distress levied under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser, on account of—

- (a) any defect or want of form in the notice, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, or  
(b) any irregularity committed by the said person:

Provided that any person aggrieved by such defect or irregularity may recover, in any Court of competent jurisdiction, full satisfaction for any special damage sustained by him.

**Power to Corporation to take summary proceedings against persons about to leave Calcutta.**

**203.** (1) If the Corporation at any time have reason to believe that any person from whom any sum is due on account of the consolidated rate is about forthwith to remove from Calcutta, the Corporation may direct the immediate payment by such person of the sum so due and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person does not forthwith pay the sum due by him, the amount shall be leviable by distress and sale under the provisions of this chapter:

*Chapter XVI.—Recovery of the consolidated rate and other taxes.—Secs. 204-207.)*

Provided that—

- (a) it shall not be necessary to serve upon the said person any notice of demand, and
- (b) the warrant of distress may be issued and executed without any delay.

**204.** It shall be competent to the Corporation instead of proceeding against a defaulter by distress and sale under the provisions of this chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, to recover from him by suit, in any Court of competent jurisdiction, any sum due, or the balance of any sum due, as the case may be, on account of the consolidated rate, together with all costs.

Power to Corporation to sue for arrears.

**205.** The consolidated rate due from any person in respect of any land or building shall, subject to the prior payment of the land-revenue (if any) due to the Government thereupon, be a first charge upon the said land or building and upon the movable property (if any) found within or upon such land or building and belonging to the said person.

The consolidated rate to be a first charge on premises.

*Other taxes.*

**206.** (1) When any sum is due from any person on account of—

- (a) the tax on carriages and animals,
- (b) the tax on professions, trades and callings, or
- (c) the scavenging-tax,

Power to Corporation to prosecute or serve notice of demand.

the Corporation may either prosecute such person under section 492 or cause to be served on him a notice of demand in the form in Schedule X or in a form to the like effect.

(2) The provisions of section 190, sub-section (2), section 192 and clause (a) of section 202 shall, with all necessary modifications, be deemed to apply to every such notice of demand.

**207.** Within seven days after the service on any person of a notice of demand under section 206, such person may—

- (a) pay the sum demanded together with any fee imposed under section 190, sub-section (2), or

Election by defaulter to pay or to appear before Magistrate or Corporation.

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Secs. 208-211.)

- (b) send a letter to the Corporation enclosing the sum demanded and electing to be prosecuted under section 492, or
- (c) appear before the Corporation personally or by agent, and contest the demand.

Procedure by  
Corporation  
after election  
by defaulter

207.

**208.** (1) If any person adopts the procedure provided by clause (b) of section 207, he shall be prosecuted as therein mentioned,

and the sum deposited under that clause shall be deducted from the amount of any fine imposed under section 492.

(2) If he contests the demand in pursuance of clause (c) of section 207, the decision of the Corporation, after hearing anything that may be urged by him or on his behalf, shall be final,

and if the Corporation find that the whole amount of the demand is due, they may, by way of penalty for previous failure to pay such amount, increase the same by any sum not exceeding fifty *per cent.* thereof.

to  
Corporation  
to increase  
penalty  
where defaulter  
does not appear  
before Magistrate  
or Corporation.  
Distrain.

**209.** If, within seven days after the service on any person of a notice of demand under section 206, the said person has not taken any of the courses permitted by section 207, the Corporation may, by way of penalty for previous failure to pay the amount due, increase the same by any sum not exceeding fifty *per cent.* thereof.

**210.** (1) If, in any case referred to in section 208, sub-section (2), or section 209, the amount of the demand, together with the amount of any penalty imposed thereunder, be not forthwith paid by the person liable to pay the same,

such amount may, with all costs of recovery, be recovered under a warrant in the form in Schedule XI, or in a form to the like effect, by distress and sale of the movable property of such person.

(2) The provisions of sections 191 to 198 and sections 201 to 203, inclusive, shall, with all necessary modifications, be deemed to apply whenever a warrant is issued under sub-section (1).

Power to  
Corporation  
to seize  
hawker's goods.

**211.** (1) Notwithstanding anything contained in section 210, if any person included under class VIII, number 81, or class IX, number 83, in Schedule VI fails to take out a license under section 175, the Corporation may cause the goods, which such person is hawking for sale, to be seized.

of 1923.]

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Part V.—Chapter XVII.—Water-supply.—Secs. 212-214.)

(2) Any goods so seized shall be dealt with under the provisions of this chapter, as property distrained under section 191.

*Supplemental provisions.*

**212.** (1) No assessment and no charge or demand of the consolidated rate or any other tax made under this Act shall be called in question or in any way affected by reason of—

Taxes not invalid for defect of form.

(a) any mistake—

(i) in the name, residence, place of business or occupation of any person liable to pay the tax, or

(ii) in the description of any property or thing liable to the tax, or

(iii) in the amount of assessment of tax, or

(b) any clerical error; or

(c) any other defect of form.

(2) It shall suffice in the case of any such tax on property or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known,

and it shall not be necessary to name the owner or occupier thereof.

**213.** The Corporation may order to be struck off the books any sum due on account of the consolidated rate or any other tax or any other account, which may appear to them to be irrecoverable.

Cancellation of irrecoverable dues.

**PART V.**

**The Public Health, Safety and Convenience.**

**CHAPTER XVII.**

**WATER-SUPPLY.**

*Proprietary rights of the Corporation.*

**214.** All Public tanks, reservoirs, cistern, wells, aqueducts, conduits, tunnels, pipes, taps and other water-works, whether made, laid or erected at the cost of the Municipal Fund, or otherwise, and all bridges, Public water-works, etc., vested in the Corporation.

*The Calcutta Municipal Act, 1923.*

[*Sec. Act 143*]

*(Part V.—Chapter XVII.—Water-supply.—Secs. 215-217.)*

buildings, engines, works, materials and things, connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, shall be vested in the Corporation.

*General duties of the Corporation in respect of the supply of water.*

Corporation to provide supply of filtered and unfiltered

**215.** (1) The Corporation shall provide—

- (a) a supply of filtered water in all parts of Calcutta, and
- (b) a supply of unfiltered water—
  - (i) in those parts of Calcutta in which such water is provided at the commencement of this Act, and
  - (ii) in such other parts of Calcutta as they may think fit.

(2) Notwithstanding anything contained in sub-section (1), the Corporation may discontinue the supply of unfiltered water in any part of Calcutta:

Provided that where the supply of unfiltered water is so discontinued—

- (a) filtered water may be used for non-domestic purposes and for the purposes mentioned in section 221, and
- (b) a sufficient quantity of filtered water shall, subject to the provisions of section 223, be supplied for all such purposes, in lieu of the unfiltered water discontinued as aforesaid.

Bathing platforms and public stand-posts.

**216.** (1) The Corporation shall erect sufficient and convenient bathing platforms and public stand-posts for the supply, free of charge, of filtered water for bathing and other domestic purposes.

(2) All such bathing platforms and stand-posts shall be supplied with a sufficient quantity of filtered water.

Hydrants, etc., for street-watering, etc.

**217.** On all distribution pipes in the unfiltered water system and, if the Corporation so direct, also in the filtered water system, suitable hydrants shall be provided for street-watering, fire-extinguishing, washing down hackney-carriage stands, and flushing street-gullies, together with such sluices, branches and appliances as may be necessary for the efficient flushing the municipal drains.

*(Part V.—Chapter XVII.—Water-supply.—Secs. 218-221.)*

**218.** The pressure of the supply of filtered water in the municipal mains in Calcutta shall continuously be not less than forty feet; Pressure of supply.

and the pressure of the supply of unfiltered water shall likewise be not less than forty feet, except during those hours when the pressure is locally reduced by street-watering, drain-flushing or extinguishing fire:

Provided that the Corporation, by a resolution in favour of which not less than two-thirds of the Councillors and Aldermen present and voting have voted, may authorize a lower pressure in any case where, owing to causes over which the Corporation have no control, or by reason of other circumstances, it is impracticable to secure a pressure of forty feet.

**219.** It shall be the duty of the Corporation to test the purity of the supply of filtered water once every week. Testing of purity of filtered water.

*Use of water.*

**220.** (1) Subject to the provisions of sections 215, sub-section (2), and 230 filtered water shall be supplied for domestic purposes only. Use of filtered water.

(2) No person shall, without the written permission of the Corporation, use for other than domestic purposes filtered water supplied under this chapter for domestic purposes:

Provided that, in case of emergency, filtered water may be used for extinguishing fire.

**221.** (1) Unfiltered water shall be used for public purposes, such as— Use of unfiltered water.

- (a) street-watering,
- (b) flushing of municipal drains, public privies and urinals, gully pits and hackney-carriage stands, and
- (c) extinguishing fire;

and shall also be used for such other purposes as the Corporation may direct.

(2) Unfiltered water may also be used, free of charge,—

- (i) for flushing privies and urinals on private premises connected with the sewers, and



## (Part V.—Chapter XVII.—Water-supply.—Secs. 222-224.)

- (ii) for flushing drains on private premises and for cleansing stables, cattle-sheds and cow-houses occupied by animals which are not kept for profit or hire.

(3) Unfiltered water shall not be used for domestic purposes.

Supply of filtered water for purposes other than domestic purposes.

**222.** A supply of filtered water for purposes other than domestic purposes shall be made upon such terms and conditions as to payment and quantity and for such period, as the Corporation may think fit.

*Private supply of water to premises.*

Right of occupier of connected premises to receive water in consideration of payment of the consolidated rate.

**223.** The occupier of any premises connected with the municipal water-supply shall be entitled to have, free of further charge, not more than fifteen hundred gallons of filtered water for every rupee paid to the Corporation as the consolidated rate on account of such premises, together with a sufficient supply of unfiltered water for flushing privies, urinals and drains within the premises and for cleansing stables, cattle-sheds and cow-houses within the premises which are occupied by animals not kept for profit or hire:

Provided that—

- (a) in no masonry building directly connected with the municipal water-supply shall the free allowance of filtered water be less than twenty-five, or more than fifty gallons per head per day, calculated upon the ordinary number of inmates of the building, as determined by the Corporation; and
- (b) if, under the provisions of this chapter, the Corporation at any time permanently discontinue the unfiltered water-supply, the Corporation may fix such larger free allowance of filtered water per day, in lieu of the supply of unfiltered water, as they may think fit.

Power to Corporation to allow occupier of premises to lay down service-pipes.

**224.** Subject to such conditions as they may from time to time impose, the Corporation may allow any person occupying any premises to lay down service-pipes from the mains of the Corporation for the purpose of bringing into the premises a supply of filtered and unfiltered water for use therein under the provisions of this chapter.

[1923.]

*(Part V.—Chapter XVII.—Water-supply.—Secs. 225-227.)*

(1) Any occupier of a masonry building who holds the same direct from the owner may, by written notice signed by him, required the owner to provide all such necessary works as may be required for bringing into the premises within which such building is situate a sufficient supply of filtered water for domestic purposes and a sufficient supply of unfiltered water for the purposes specified in section 221, sub-section (2).

Requisition by occupier of masonry building or owner to provide works for supply of water.

(2) Every such notice shall contain an undertaking on the part of the occupier—

- (a) to pay, during the residue of his term of occupation, interest at the rate of one *per cent. per mensem*, calculated from the date of the completion of the works, on the cost of all works so provided by such owner, and,
- (b) if the premises do not abut upon some street in which there is a supply-main, to pay the cost of connecting the premises with the nearest supply-main.

**226.** If any owner upon whom a notice has been served under section 225 does not, within one month from such service, cause all necessary works, as required by the said notice, to be provided or completed, the occupier who gave the notice may cause the works to be provided or completed,

Provision or completion of works by occupier in default of owner, and deduction of expenses from rent.

and may deduct from the rent payable by him to such owner the expenses incurred by him in respect of such works, except so much of such expenses as may have been incurred under the circumstances mentioned in clause (b) of sub-section (2) of section 225.

**227.** (1) If there is any difference between the owner and the occupier of any premises respecting the cost or the sufficiency of the water-supply thereof, either party may refer such difference to the Corporation, and the written award of the Corporation shall be binding on such owner and occupier.

Arbitration in case of difference between owner and occupier.

(2) There shall be payable to the Corporation, by the person making a reference under sub-section (1), a fee at the rate of two rupees for every one hundred rupees of the monthly rent of the said premises:

Provided that such fee shall in no case exceed ten rupees.

*The Calcutta Municipal Act, 1923.*

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*(Part V.—Chapter XVII.—Water-supply.—Secs. 228-230.)*

Power to Corporation to direct owner to obtain sufficient supply of water from nearest

**228.** Whenever it appears to the Corporation that any premises are without a sufficient supply of water, and that such a supply of water can be furnished from a main not more than <sup>1</sup>[two hundred feet] distant from the nearest part of such premises, the Corporation may, by written notice, require the owner to obtain such supply and for that purpose to lay down such pipes, hydrants, stand-posts and other fittings and execute all such other works as the Corporation may direct:

Provided that—

- (a) in any case in which the owner satisfies the Corporation that he is too poor to bear the cost of the said works, the Corporation may pay the whole or any part of such cost from the Municipal Fund; and
- (b) if any premises in respect of which any notice is issued under this section are occupied by a person other than the owner, the occupier shall be bound, if the Corporation so direct, to make to the owner, in respect of all works executed in pursuance of such notice, the payments prescribed by clause (a), or clauses (a) and (b), as the case may be, of sub-section (2) of section 225.

Water-supply not to be directly connected to huts.

**229.** Notwithstanding anything contained in this chapter, the municipal water-supply shall not be directly connected to any hut, but a sufficient supply of unfiltered water shall be provided for the flushing of any connected-privy attached to a hut:

Provided that the Corporation may supply a direct filtered water connection to a hut on such conditions as they may impose and subject to such rules as may be made by them in this behalf.

Power to Corporation to sell water for other than domestic

**230.** (1) The Corporation may, in their discretion and subject to such conditions as they may from time to time impose, supply filtered or unfiltered water for any purpose other than a domestic purpose, on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed:

Provided that where, in the opinion of the Corporation, the supply of unfiltered water might possibly

<sup>1</sup>These words were substituted for the  
by s. 2 of the Calcutta Municipal (A  
XV of 1935).

— 'one hundred feet'  
Act, 1935 (Ben. Act

*(Part V.—Chapter XVII.—Water-supply.—Sect. 231-233.)*

lead to contamination, only filtered water shall be supplied—

(a) for use by persons who manufacture articles for consumption by human beings, or

(b) for cow-houses where cows are kept for the purpose of supplying milk for sale.

(2) For all water supplied under sub-section (1), payment shall be made at such rate as may be prescribed by the Corporation.

(3) When any application under sub-section (1) is received, the Corporation may, subject to such charges or rates as may have been fixed by them, place, or allow to be placed, the necessary service-pipes, taps and works (including water-meters) of such dimensions and character as may be prescribed by them, and may arrange for the supply of water through such pipes, taps, works and meters.

*Supply of water to ships.*

**231.** (1) Filtered water from public stand-posts may be used, free of charge, for domestic purposes on ships for the time being lying in the Port of Calcutta.

Supply of filtered water to ships.

(2) The Corporation shall, on demand, supply every ship leaving the Port of Calcutta with a reasonable supply of filtered water for use on the voyage, at such price, not exceeding five rupees for every thousand gallons, as the Corporation may determine.

*Private connections of premises to the water-supply and maintenance thereof.*

**232.** All private connections of premises to the municipal mains for the supply of water therein, and all pipes, taps and other fittings used for such supply, shall be made, maintained and regulated in accordance with, and subject to, the rules contained in Schedule XIV.

Rules as to private connections to premises.

**233.** Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expense of keeping all works connected with the supply of water thereto in substantial repair; and, if he fails to do so, the occupier may, after giving the owner three days' notice in writing, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises:

Owner to keep works in repairs.

Provided that nothing in this section shall affect the liabilities of parties under leases executed or made before the first day of April, 1889.

(Part V.—Chapter XVII.—Water-supply.—Secs. 234,  
235.)

Power to  
Corporation to  
take charge of  
private  
connections.

✓ **234.** The Corporation may, if they think fit, take charge of all communication-pipes and fittings of any existing private service connected with the municipal water-supply up to and including the stop-cock nearest the supply-main for the said service, and such communication-pipes and fittings shall thereafter vest in, and be maintained at the expense of, the Corporation as part of the municipal water-works.

*Regulation of consumption of water, and provision of  
meters.*

Power of  
Corporation to  
establish block  
meters for the  
supply of  
filtered water.

**235.** (1) The Corporation may establish for any area in Calcutta such blocks as they may think fit in order to regulate the supply and consumption of filtered water, and shall cause each such block to be provided with a meter through which the whole supply of filtered water for such block shall pass and be recorded..

(2) Such meters shall be read at such intervals as may from time to time be fixed by the Corporation, and the quantity indicated by any such meter as supplied shall be presumed to be correct until the contrary is proved.

(3) The Corporation shall from time to time determine the supply of filtered water to which any block shall be entitled, having regard to the provisions of section 223 and to the amount of the consolidated rate payable for such block, and making the allowance for water used at street stand-posts and public bathing platforms, and for loss through leakage or otherwise, as they may deem just and fair.

(4) If the Corporation are satisfied that in any block the quantity of filtered water consumed is in excess of the quantity to the supply of which such block is entitled, they shall cause a warning notice to be served on the occupiers of all premises in the block. If, after the service of such notice, such excess consumption still continues, the excess quantity shall be charged for from the quarter following that in which the notice was served and shall be recoverable from the occupiers of all such premises in such block as are connected with the filtered water-supply, and the occupier of each such premises shall be liable to pay a share of the cost of such excess calculated on the proportion of the amount of the consolidated rate payable in respect of the said premises to the total amount of the consolidated rate payable by persons who are liable to pay the cost of the excess:

of 1923.]

(Part V.—Chapter XVII.—Water-supply.—Sects. 236-238.)

Provided that any occupier of any such premises who has provided a separate meter attached to the service-pipe thereof, shall not be liable to pay any proportionate share as aforesaid, but shall pay for any excess, which such meter shows to have been supplied to him in accordance with the provisions of section 238:

Provided also that, on a representation from any ten persons within the block who are held liable for the cost of such excess, the Corporation shall forthwith take into consideration the question of affixing a meter under the provisions of section 237 to the service-pipe attached to any premises within the block, the occupier of which premises is alleged or is suspected by such persons to be wasting filtered water.

**236.** (1) Whenever the Corporation have reason to believe that, as the result of defects in pipes, taps or fittings connected with the water-supply, the filtered water-supply to any premises is being wasted, they may, by written notice, require the owner and occupier of the premises, within a period of four days after service of the notice, to repair and make good any defects in the pipes, taps or fittings connected with the water-supply, so as to put a stop to such waste.

Prevention of waste of filtered water in premises.

(2) If, after the expiration of the said period of four days, the Corporation have reason to believe that waste still continues, they may cut off filtered water to the said premises.

**237.** (1) The Corporation may, in their discretion, provide a water-meter and attach the same to the service-pipe of any premises connected with the municipal filtered water-supply.

Power to Corporation to provide water-meters.

(2) The expense of providing and attaching a meter under sub-section (1) shall be paid out of the Municipal Fund.

**238.** (1) When a meter has been attached to any premises, all filtered water which is shown thereby to have been supplied in excess of the free allowance to which the occupier is entitled under section 223 shall be paid for by him at the rate of one rupee for every three thousand gallons.

Payment by occupier for filtered water supplied in excess of statutory allowance.

(2) The Corporation may cause the meter to be read at any time during each quarter, but as nearly as practicable at intervals of three months:

Provided that if, during any quarter, the assessment of such premises is altered, the said free allowance shall be calculated on the consolidated rate payable on the assessment as altered.

*(Part V.—Chapter XVII.—Water-supply.—Secs. 239, 240.)*

(3) If such premises are ordinarily occupied by two or more persons holding in severalty, the owner shall be liable for water supplied in excess as prescribed by sub-section (1); but such owner shall be entitled to recover rateably from the several occupiers, according to the rent paid by each, any amount so paid.

(4) Every incoming or outgoing occupier of any metered premises shall, at least three clear days before entering into the occupation of or vacating such premises, as the case may be, cause a written notice to be served upon the Corporation, stating the date on which he intends to occupy or vacate the premises and requiring the Executive Officer to cause the meter to be read for the determination of the liability, if any, for any excess consumption of filtered water on the date of such occupation or the date of such vacation of the premises, as the case may be.

(5) Upon receipt of such notice the Executive Officer shall cause the meter to be read and furnish such occupier with a statement of such meter reading.

(6) The outgoing occupier shall ordinarily be liable to pay for any excess supplied up to the date of his vacating the premises;

and the incoming occupier's liability for any excess consumption of filtered water shall ordinarily accrue from the commencement of his occupation:

Provided that where no written notice is delivered to the Corporation under sub-section (4), the Corporation shall be entitled to realise from such incoming occupier the full proportionate amount of the charges for excess water consumed, on the basis of the next quarterly or other reading of the meter made after the occupation of the incoming occupier, or such less amount as the Corporation may think fit, regard being had to the number of days in any quarter during which the premises were occupied by such incoming occupier, the number of inmates during that period and the amount of free allowance to which such occupier may be entitled under section 223.

**Presumption as to correctness of meter.**

**239.** Whenever water is supplied under this chapter through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.

**Rules as to meters.**

**240.** The use, maintenance and testing of meters provided under this chapter, and the calculation of the amount payable under section 238 in case of the

(Part V.—Chapter XVII.—Water-supply.—Secs. 241, 242.)

incorrectness of any such meter, shall be in accordance with, and subject to, the rules contained in Schedule XIV.

**241.** (1) If it be shown that an offence against any provision of this chapter, or against any rule or by-law made under this Act relating to water-supply, has occurred in any premises connected with the municipal water-supply, it shall, subject to the provisions of subsection (2), be presumed, unless and until the contrary is proved, that such offence has been committed by the occupier of the said premises.

Occupier of premises to be primarily liable for certain offences relating to water-supply.

(2) The existence of artificial means for—

- (a) altering the index to any meter provided under this chapter for measuring filtered water, or
- (b) preventing any such meter from duly registering the quantity of water supplied, or
- (c) abstracting or using water before it has been registered by such meter,

shall, where the meter is under the custody or control of the consumer of such water, be *prima facie* evidence that the consumer has fraudulently caused such alteration, prevention, abstraction or use.

*Supply of water for use beyond Calcutta.*

**242.** (1) The Corporation may at any time, on receiving an application from the municipality or cantonment concerned, direct that such quantity of filtered water *per diem* as may be determined by the Corporation shall be delivered into reservoirs or pipes placed in—

Supply of filtered water to adjacent municipalities and cantonments.

- (a) any of the following municipalities or cantonments, namely:—

*Municipalities :*

Baranagar,	Panihati,
<sup>1</sup> [Garden Reach,]	Khardah,
Garulia,	South Dum-Dum,
Kamarhati,	South Suburban,
North Barrackpur,	Titagarh,
North Dum-Dum.	Tollyganj;

*Cantonments :*

Barrackpur, | Dum-Dum, or

<sup>1</sup>These words inserted by the Garden Reach Municipality Act, 1932 (Ben. Act. III of 1932).



*The Calcutta Municipal Act, 1923.*

[*Ben. Act 111*]

*(Part V.—Chapter XVII.—Water-supply.—Secs. 243-245.)*

- (b) any municipality which is hereafter formed by subdividing any municipality mentioned in clause (a), or by uniting into one municipality any of the municipalities mentioned in that clause;

and that for all water so delivered payment shall be made at such rate, not being less than the cost (including loan charges, allowance for depreciation of plant and other charges) to the Corporation, as may from time to time be determined by the Corporation.

(2) An appeal shall lie to the <sup>1</sup>[Provincial Government] from any refusal by the Corporation to give a direction under sub-section (1), or from any direction given by the Corporation under that sub-section.

(3) Before deciding any such appeal, the <sup>1</sup>[Provincial Government] shall consider any representation made by the Corporation with reference thereto.

(4) No order made on any such appeal shall direct the delivery of water at a lower rate of payment than the cost to the Corporation.

(5) Every order made by the <sup>1</sup>[Provincial Government] on any such appeal shall be final.

Supply of water to ]

out of Calcutta or for use without Calcutta.

**243.** (1) The Corporation may, in their discretion, allow any person not residing in Calcutta to take or be supplied with water on such terms as they may from time to time prescribe.

(2) No person shall, without the written permission of the Corporation, take or cause to be taken for use without Calcutta water supplied under this chapter:

Provided that this sub-section shall not apply to water taken by travellers for use on a journey.

*Supplemental provisions.*

General powers of the Corporation in regard to water-mains.

**244.** The Corporation shall have the same powers and be subject to the same restrictions for carrying water-mains in or without Calcutta as they have ~~and~~ <sup>subject to</sup> for carrying drains in or without Calcutta.)

Power to Corporation to cut off or turn off supply of water to premises.

**245.** (1) Notwithstanding anything contained in this chapter, the Corporation may cut off the connection between any water-works of the Corporation and any premises to which water is supplied from such

<sup>1</sup>See foot-note 2 on p. 241, *ante*.

*(Part V.—Chapter XVII.—Water-supply.—Sec. 245.)*

works, or may turn off such supply, in any of the following cases, namely:—

- (a) if the premises are unoccupied;
- (b) if, after receipt of a written notice from the Corporation requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water or to permit the same to be used, in contravention of this Act or of any rule or by-law made thereunder;
- (c) if the occupier of the premises contravenes section 220, sub-section (2), or section 243, sub-section (2);
- (d) if the occupier refuses to admit any municipal officer or servant duly authorized in that behalf into the premises for the purpose of making any inspection under this chapter or under any rule or by-law relating to water-supply made under this Act, or prevents such municipal officer or servant from making such inspection;
- (e) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe or tap conveying water from any works of the Corporation;
- (f) if any pipes, taps, works or fittings connected with the supply of water to the premises be found, on examination by the Corporation, to be out of repair to such an extent as to cause so serious a waste of water that, in the opinion of the Executive Officer, immediate prevention is necessary;
- (g) if the use of the premises for human habitation has been prohibited under section 381, from the date from which the premises are to be vacated under the order of the Magistrate;
- (h) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached; or
- (i) if by reason of a leak in the service pipe or fitting, damage is caused to the public street and immediate prevention is necessary:

## (Part V.—Chapter XVII.—Water-supply.—Secs. 246, 247.)

Provided as follows:—

- (i) water supplied for flushing privies or urinals shall not be cut off or turned off;
- (ii) water shall not be cut off or turned off in any case referred to in clause (g), unless written notice of not less than forty-eight hours has been given to the occupier of the premises.

(2) The expense of cutting off the connection or of turning off the water and of restoring the same, as determined by the Corporation in any case referred to in sub-section (1), shall be paid, in the case of a *bustee*, by the owner of the premises, and in any other case by the owner or occupier of the premises:

Provided that no charge for such expense shall be made in the cases mentioned in clause (a) and clause (g) of the said sub-section.

(3) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

**Filling up wells when water supplied.**

**246.** Whenever a supply of filtered and unfiltered water has been provided in any street, the Corporation may, by written notice, require the owner of any well situated in premises which are supplied from the mains to fill it up with suitable materials.

**Laying of pipes or construction of aqueducts beyond Calcutta for bringing water into Calcutta.**

**247.** (1) When a plan for laying pipes or constructing aqueducts for bringing water into Calcutta from any place without Calcutta has been approved by the <sup>1</sup>[Provincial Government], the Corporation may, in the execution and for the purposes of the work, exercise, throughout the line of country without Calcutta through which such pipes or aqueducts are to run, all the powers which they might exercise under this Act or under any rule or by-law made thereunder if the said pipes or aqueducts were to run in Calcutta.

(2) The Magistrate of any district without Calcutta through which the said pipes or aqueducts are to run may exercise, in respect of such work, the same powers and jurisdiction as a Magistrate may, under this Act, exercise in respect of any work executed by the Corporation in Calcutta.

<sup>1</sup>See foot-note 2 on p. 241, ante.

of 1923.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 248-251.)

## CHAPTER XVIII.

### DRAINS, PRIVIES AND OTHER RECEPTACLES FOR FILTH.

#### *Proprietary rights of the Corporation in respect of drains.*

**248.** (1) All public drains, and all drains in, alongside or under any public street, whether made at the charge of the Municipal Fund or otherwise, and all works, materials and things appertaining thereto shall vest in the Corporation.

Public drains, and drains in, alongside or under public streets, to vest in Corporation.

(2) For the purposes of enlarging, deepening or otherwise repairing or maintaining any such drain so much of the sub-soil appertaining to the drain as may be necessary for the said purposes shall also be deemed to vest in the Corporation.

**249.** All drains and ventilation-shafts, pipes and other appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the Municipal Fund in or upon premises not belonging to the Corporation, whether—

Drains, etc., constructed, etc., at charge of Municipal Fund on private premises to vest in Corporation.

(a) before or after the commencement of this Act, and

(b) for the use of the owner or occupier of such premises or not,

shall, unless the Corporation has otherwise determined, or do at any time otherwise determine, vest and be deemed always to have vested in the Corporation.

#### *Duties of the Corporation in respect of maintenance and construction of drains.*

**250.** The Corporation shall keep all municipal drains in repair, and shall cause to be made such drains as may be necessary for effectually draining Calcutta.

Repair and provision of municipal drains by Corporation.

**251.** (1) The Corporation shall provide a safe and sufficient outfall, in or without Calcutta, for the proper discharge of the storm-water and sewage of Calcutta in such manner as not to cause any nuisance, whether by flooding any part of Calcutta or of the country surrounding the outfall or in any other way.

Provision by Corporation for outfall for discharge of storm-water and sewage.

*(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Sec. 252.)*

(2) The plans of such outfall and the method of disposing of sewage shall be subject to the sanction of the <sup>1</sup>[Provincial Government], who may from time to time direct such alterations to be made as they may consider necessary.

(3) If the outfall deteriorates, by the decay of existing river channels or otherwise, the <sup>1</sup>[Provincial Government] may require such order to be taken, and such additions or alterations to be made to or in the outfall works at, the charge of the Municipal Fund, as they may consider necessary to ensure a safe and sufficient outfall.

*Municipal drains.*

Power to  
Corporation to  
improve,  
discontinue, etc.,  
municipal  
drains, etc.

**252.** (1) The Corporation may—

- (a) enlarge, arch over, or otherwise improve any municipal drain, or
- (b) discontinue, close up or destroy any municipal drain which has, in their opinion, become useless or unnecessary, or
- (c) carry any municipal drain—
  - (i) through, across or under any street or any place laid out as, or intended for, a street, and
  - (ii) (after giving reasonable notice in writing to the owner and occupier) into, through or under any land whatsoever or under any building

in Calcutta or, for the purpose of outfall or distribution of sewage, without Calcutta, or

- (d) construct any new municipal drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or
- (e) repair or alter any municipal drain so constructed :

<sup>1</sup>See foot-note 2 on p. 241, ante.

of 1923.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 253, 254.)

Provided that—

- (i) if, in the exercise of any of the powers conferred by this section, it is proposed to demolish any house-drain, a written notice shall be served upon the owner of such drain; and
- (ii) if, by reason of anything done under this section, any person is deprived of the lawful use of any drain, the Corporation shall, as soon as practicable, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

(2) In the exercise of any power conferred by this section, the Corporation shall create the least practicable nuisance and do as little damage as may be, and shall pay compensation to any person who sustains damage by the exercise of such power.

**253.** (1) Without the written permission of the Corporation—

- (a) no private street shall be constructed, and
- (b) no wall or other structure shall be newly erected over any municipal drain.

Private streets, etc., not to be constructed over municipal drain without permission.

(2) If any private street be so constructed, or if any wall or other structure be so erected, without such permission, the Corporation may remove or otherwise deal with the same as they may think fit,

and the expenses incurred by the Corporation in so doing shall, in the discretion of the Corporation, be paid by the owner of such private street, wall or other structure, or by the person offending.

**254.** (1) Any local authority without Calcutta may cause any drain under its control to communicate with any municipal drain, on such terms and conditions as may be agreed on between such local authority and the Corporation.

Communication of drain under control of local authority beyond Calcutta with municipal drain.

(2) If in any case terms and conditions cannot be agreed upon under sub-section (1), such local authority shall refer the matter to the '[Provincial Government], whose decision shall be final.

<sup>1</sup>See foot-note 2 on p. 241, ante.

*The Calcutta Municipal Act, 1923.*

[*Ben. Act III*]

(*Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 255-257.*)

Communication of municipal drains with drains, lakes, etc., beyond Calcutta.

**255.** (1) When a plan for making municipal drains to communicate with, or empty themselves into, any public drain, lake, stream, canal or water-course without Calcutta has been approved by the <sup>1</sup>[Provincial Government], the Corporation may, in the execution and for the purposes of the work, exercise, throughout the line of country without Calcutta, through which the said drains are to run, all the powers which they might exercise under this Act if the said drains were to run entirely in Calcutta.

(2) The Magistrate of any district without Calcutta, through which the said drains are to run, may exercise, in respect of the said work, the same powers and jurisdiction as a Magistrate may, under this Act, exercise in respect of any work executed by the Corporation entirely in Calcutta.

*Drainage of premises.*

Right of owner or occupier of premises to empty his house-drain into municipal drain.

**256.** The owner or occupier of any premises shall be entitled to cause his house-drain to empty into a municipal drain, provided that, before doing so, he—

- (a) obtains the written permission of the Corporation in accordance with the provisions of Schedule XV, and
- (b) complies with such conditions as the Corporation may prescribe as to the mode in which, and the superintendence under which, communications between house-drains and municipal drains are to be made.

Connections with municipal drains not to be made except in conformity with section 256.

**257.** (1) No person shall, without complying with the provisions of section 256, make, or cause to be made, any connection of a house-drain with a municipal drain.

*see 6-10*

(2) The Corporation may close, demolish, alter or re-make any such connection made in contravention of sub-section (1);

and the expenses incurred in so doing shall, in the discretion of the Corporation, be paid by the owner or occupier of the premises for the benefit of which such connection was made, or by the person offending.

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<sup>1</sup>See foot-note 2 on p. 241, *ante*.

of 1923.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 258, 259.)

**258.** When a house-drain belonging to one or more persons has been laid in any private street which is common to more than one premises, and the Corporation consider it desirable that any other premises should be drained into such drain,

Compulsory connection of house-drains with each other.

they may, by written notice, require the owner of such premises to connect his house-drain with such first-mentioned drain;

and the owners of such first-mentioned drain shall thereupon be bound to permit such connection to be made:

Provided that no such connection shall be made— ✓

(a) except upon such terms as may be prescribed by the Corporation, and

(b) until any payment which may be directed by the Corporation has been duly made. Comm. Sec.

**259.** (1) If it appears to the Corporation that any group or block of premises may be drained more economically or advantageously in combination than separately,

Power to Corporation to drain group or block of premises by a combined operation.

and a municipal sewer of sufficient size already exists or is about to be constructed within one hundred feet of any part of such group or block of premises,

the Corporation may cause such group or block of premises to be drained by a combined operation.

(2) The expenses incurred in carrying out any work under sub-section (1) in respect of any group or block of premises shall be paid by the owners of such premises in such proportions as the Corporation may think fit.

Comm. Sec. King

(3) Not less than fifteen days before any such work is commenced, the Corporation shall give to each such owner—

(a) written notice of the nature of the proposed work, and

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.



*(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 260, 261.)*

**Power to Corporation to enforce drainage of undrained premises situate within one hundred feet of a municipal drain.**

**260.** When any premises are, in the opinion of the Corporation, without sufficient means of effectual drainage, and a municipal drain or some place approved by them for the discharge of drainage is situated at a distance not exceeding one hundred feet from any part of the said premises, they may, by written notice, require the owner of the said premises—

- (a) to make a house-drain emptying into such municipal drain or place;
- (b) to provide and set up all such appliances and fittings as may appear to the Corporation necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such house-drain and every fixture connected therewith; or
- (c) to remove any existing house-drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

**Power to Corporation to enforce drainage of undrained premises in other cases.**

**261.** When in any case not provided for in section 260 any premises are, in the opinion of the Corporation, without sufficient means of effectual drainage, they may, by written notice, require the owner of such premises to make a house-drain communicating with the nearest municipal drain:

Provided as follows—

- (a) the cost of constructing that portion of the house-drain so made, which is situate more than one hundred feet from the said premises, shall be paid out of the Municipal Fund; and
- (b) if, in the opinion of the Corporation, there is no municipal drain within a reasonable distance of such premises, they may, by written notice, require the owner of the premises to construct—
  - (i) a closed cesspool of such material, size and description, and in such position, as they may prescribe, and
  - (ii) a house-drain communicating with such closed cesspool.

of 1923.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 262, 263.)

✓ **262.** When a house-drain connecting any premises with a municipal drain is sufficient for the effectual drainage of such premises and is otherwise unobjectionable, but is not, in the opinion of the Corporation, adapted to the general drainage system of Calcutta, they may, by written notice addressed to the owner of the premises, direct—

Power to Corporation to close or limit the use of house-drain in certain cases.

- (a) that such house-drain be closed, discontinued or destroyed and that any work necessary for that purpose be done; or
- (b) that such house-drain shall, from such date as they prescribe in this behalf, be used for sewage, offensive matter and polluted water only or for rain-water and unpolluted sub-soil water only.

Provided as follows—

- (i) no house-drain may be closed, discontinued or destroyed by the Corporation under clause (a) except on condition of their providing another house-drain equally effectual for the drainage of the premises and communicating with any municipal drain which they think fit; and
- (ii) the expenses of the construction of any drain so provided by the Corporation and of any work done under clause (a) may be paid out of the Municipal Fund.

**263.** (1) Whenever it is provided in this chapter that steps shall or may be taken for the effectual drainage of any premises, the Corporation may, by written notice, require the owner to construct—

Power to Corporation to require that sewage and rain-water drains be distinct in any premises.

- (a) one house-drain for sewage, offensive matter and polluted water, and
- (b) another and entirely separate house-drain for rain-water or unpolluted sub-soil water, or for both rain-water and unpolluted sub-soil water,

each emptying into separate municipal drains or other suitable places.

(2) Any requisition made by the Corporation under sub-section (1) may comprise any detail specified in clause (b) of section 260.

*(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 264-267.)*

Power to Corporation to require paving, maintaining and raising level of court-yard, etc.

**264.** For the purpose of efficiently draining any land or building, the Corporation may, by written notice, require the owner of any court-yard, alley, passage or open space—

- (a) to pave the same with such material and in such manner as may be approved of by the Corporation, and to keep such paving in proper repair, or
- (b) to raise the level of such court-yard, alley, passage or open space.

Drains for huts.

**265.** (1) The Corporation may prescribe such drains for the drainage of huts as the circumstances of the locality and the position of the nearest municipal drain may render practicable.

(2) If the Corporation consider that a new drain should be constructed for the benefit of the occupants of any hut, they may, by written notice, require the owner of the land on which such hut stands to construct such drain;

and such owner shall construct such drain, and shall maintain and from time to time cleanse and repair it, to the satisfaction of the Corporation.

(3) The powers conferred by this section shall be deemed to be in addition to, and not in derogation of, the powers conferred by section 260 and section 261.

Rules as to drains.

**266.** Drains shall be constructed, maintained, repaired, altered and regulated in accordance with—

- (a) the rules contained in Schedule XV and the by-laws made under this Act relating to drains, and
- (b) requisitions made under such rules and by-laws.

*Privies, urinals and bathing and washing places.*

Power to Corporation to provide and maintain public privies and urinals.

**267.** The Corporation shall—

- (a) provide and maintain, in proper and convenient situations, privies and urinals for the use of the public, and
- (b) cause all privies and urinals so provided to be constructed and kept so as not to be a nuisance or injurious to health.

of 1923.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 268-270.)

**268.** (1) The Corporation may—

- (a) grant licenses, for any period not exceeding one year, for the provision and maintenance of privies and urinals for the use of the public, and
- (b) at any time, if they think fit, cancel any license so granted after giving one month's notice to the licensee.

Power to Corporation to license public privies and urinals.

(2) No person shall—

- (i) keep a privy or urinal for the use of the public without obtaining a license therefor under sub-section (1), or
- (ii) keep such privy or urinal after such license has been cancelled, or
- (iii) suffer a licensed public privy or urinal of which he is the licensee to be in a filthy or noxious state.

**269.** In every new building intended for human habitation, such privy and urinal accommodation as the Corporation may prescribe, shall be provided on such site and in such position as they may direct.

Privy and urinal accommodation to be provided in new buildings.

**270.** (1) In every new building, at or in which not less than twenty labourers or workmen are or are likely to be employed, such privy and urinal accommodation, and accommodation for bathing or for the washing of clothes and domestic utensils, shall be provided as the Corporation may prescribe. In prescribing any such accommodation the Corporation may determine in each case—

Privy, urinal and other accommodation for premises for twenty or more labourers or workmen.

- (a) whether such building shall be provided with service or connected privies or urinals, or partly with one and partly with the other; and
- (b) what the site or position of each privy, urinal or bathing or washing place shall be, and their number.

(2) When any premises at or in which not less than twenty labourers or workmen are employed, are without privy, urinal, bathing or washing place accommodation to the satisfaction of the Corporation, they may, by written notice, require the owner of such premises to provide such privy, urinal or bathing or washing place accommodation as they may prescribe.

*Commissioner*

*The Com*

[*Ben. Act 112*]

(*Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 271, 272.*)

Provision for  
privy and  
urinal  
accommodation  
in premises  
where  
accommodation  
is not provided  
or is  
insufficient.

**271.** When any premises intended for human habitation are without privy or urinal accommodation, or if the Corporation are of opinion that the existing accommodation therefor available for the persons occupying the premises is insufficient, inefficient or for sanitary reasons objectionable, the Corporation may, by written notice, require the owner of such premises—

- (a) to provide such or such additional privy or urinal accommodation as they may prescribe; or
- (b) to make such structural or other alterations in the existing privy or urinal accommodation as they may prescribe; or
- (c) to substitute connected privy or connected urinal accommodation for any service privy or service urinal accommodation :

Provided that where the privy or urinal accommodation of any premises has been and is being used in common by the persons occupying such premises or any other premises or is in the opinion of the Corporation likely to be so used, the Corporation may, if they are of opinion that such accommodation is sufficient to admit of the same being used by all the persons occupying all the said premises, direct that separate privy or urinal accommodation need not be provided on or for such other premises :

Provided also that the Corporation may, if they are of opinion that there is sufficient public latrine accommodation available for the persons occupying the premises, direct that separate privy or urinal accommodation need not be provided for such premises.

Power to  
Corporation  
to require  
provision of  
privies and  
urinals for  
premises used  
as a market,  
etc.

**272.** If it appears to the Corporation that any premises are, or are intended to be, used as a market, railway-station, dock, wharf or other place of public resort, or as a place for the employment of persons exceeding twenty in number, in any manufacture, trade or business, or as workmen or labourers, they may, by written notice, require the owner of such premises to provide such service or connected-privies and urinals for the separate use of persons of each sex as they may prescribe.

of 1923.]

*(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 273-276.)*

**273.** Privies and urinals, and all appurtenances thereof, shall be constructed, maintained, repaired, altered and regulated in accordance with—

Rules for construction, etc., of privies and urinals.

(a) the rules contained in Schedule XV and any by-laws made under this Act relating to privies and urinals and the appurtenances thereof, and

(b) requisitions made under such rules and by-laws.

**274.** (1) If, within three years after any privy has been provided or altered with the sanction or on the requisition of any municipal authority duly empowered in that behalf, or of the Corporation under this Act, a requisition is made by the Corporation for the rebuilding or alteration of such privy, the expenses of such rebuilding or alteration shall be paid out of the Municipal Fund.

Cost of repair of privy payable out of Municipal Fund in certain

(2) When any notice has been issued under section 271 or Schedule XV in respect of any privy, urinal or group of privies or urinals and the Corporation are satisfied that the owner of the land or building on or in which any such privy or urinal is situated is from poverty unable to pay the whole or part of the expenses of carrying out the work required by the notice they may direct that such expenses, or such portion thereof, as they think fit, be paid out of the Municipal Fund.

*Inspection of drains, house-gullies, privies, urinals, and bathing and washing places.*

**275.** All house-drains, ventilation-shafts and pipes, cesspools, house-gullies, privies, urinals, and bathing and washing places which do not belong to the Corporation, or which have been constructed, erected or set up at the charge of the Municipal Fund on premises not belonging to them, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by them.

House-drains, etc., not belonging to the Corporation to be subject to inspection and examination.

**276.** For the purpose of any inspection and examination under section 275, the Corporation may cause the ground or any portion of any house-drain or other work exterior to a building, or any portion of a building which they may think fit, to be opened, broken up or removed:

Power to Corporation to open ground, etc., for purposes of such inspection and examination.

Provided that in the prosecution of any such inspection and examination as little damage as possible shall be done.

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 277, 278.)

of  
inspection and  
examination by  
whom to be  
paid.

**277.** (1) If, upon any inspection and examination under section 275, it is found that the house-drain, ventilation-shaft or pipe, cesspool, house-gully, privy, urinal, or bathing or washing place examined is in proper order and condition, and that none of the provisions of this Chapter or of Schedule XV, or of any by-law made under this Act have been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or the portion of any building, house-drain or other work (if any) opened, broken up or removed, for the purpose of such inspection and examination shall be filled in, re-instated and made good by the Corporation.

(2) But if, upon any such inspection and examination, it is found that any house-drain, ventilation-shaft or pipe, cesspool, house-gully, privy, urinal, or bathing or washing place so examined is not in good order or condition, or has been repaired, changed, altered, encroached upon or (except when the same has been constructed by or under the order of a municipal authority duly empowered in that behalf, or of the Corporation under this Act) constructed in contravention of any of the provisions of this chapter, or of Schedule XV, or of any by-law made under this Act, or of any enactment at the time in force.

the expenses of the inspection and examination shall, if the Corporation so direct, be paid by the owner of the premises, and the said owner shall at his own cost fill in, re-instate and make good the ground, or the portion of any building, house-drain or other work opened, broken up or removed for the purpose of such inspection and examination :

Provided that the amount recoverable as the expenses of such inspection and examination shall not in any case exceed ten rupees.

Power to  
Corporation to  
require repairs,  
etc., to be  
made.

**278.** (1) When the result of any inspection and examination under this chapter is as described in section 277, sub-section (2), the Corporation may, by written notice, require the owner of the premises in which the house-drain, ventilation-shaft or pipe, cesspool, house-gully, privy, urinal, or bathing or washing place referred to in the said sub-section is situate—

- (a) to close or remove the same or any encroachment thereupon; or
- (b) to renew, repair, cover, re-cover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as the Corporation may think fit to direct, and to fill

of 1923.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 279, 280.)

- in, re-instate and make good the ground or the portion of any building, house-drain or other work opened, broken up or removed for the purpose of the said inspection and examination.

(2) In any such case the Corporation may, forthwith and without notice, stop up or demolish any house-drain by which sewage, offensive matter or polluted water is carried through, from, into or upon any premises in contravention of any of the provisions of this chapter or of Schedule XV, or of any by-law made under this Act;

and may also, forthwith and without notice, clear, cleanse or open out any house-drain which is choked, blocked or in any way obstructed;

and all expenses incurred by the Corporation in so doing shall, in their discretion, be paid by the owner or the occupier of the premises.

*Position of cesspools and other filth receptacles.*

**279.** (1) No person shall construct a cesspool—

Position of cesspools.

- (a) beneath any part of any building, or within fifty feet of any tank, reservoir, water-course or well; or
- (b) upon any site or in any position in Calcutta which has not been approved in writing by the Corporation; or
- (c) upon any site or in any position without Calcutta, which has not been so approved and is situated within three hundred feet of any reservoir used for the storage of filtered water to be supplied to Calcutta.

(2) The Corporation may at any time, by written notice, require any person within whose premises any cesspool is constructed in contravention of sub-section (1), to remove such cesspool or to fill it up with such materials as may be approved by them.

**280.** (1) No person shall construct any house-drain, service-privy, urinal or other receptacle for sewage or offensive matter, not being a cesspool, within fifty feet of any tank, well or water-course or any reservoir for the storage of water, unless he first satisfies the Corporation that he will take such order therewith as will prevent any risk of sewage or offensive matter

No filth receptacle to be situated within fifty feet of tank, well, water-course or 'oir.



**(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 281-283.)**

passing by percolation or otherwise into such tank, well, water-course or reservoir.

(2) The Corporation may at any time, by written notice, require any person within whose premises there is situated, within fifty feet of any tank, well, water-course or reservoir for the storage of water, any receptacle mentioned or referred to in sub-section (1), to remove such receptacle.

(3) This section shall also apply to any such receptacle, without Calcutta, which is constructed or situated within fifty feet of any reservoir used for the storage of filtered water to be supplied to Calcutta.

*General powers and duties of the Corporation.*

Power to Corporation to affix shafts or pipes for ventilation of drain or cesspool.

**281.** For the purpose of ventilating any drain or cesspool, whether vested in the Corporation or not, they may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as may appear to them to be necessary.

Power to Corporation to execute work when municipal drains, etc., in affected.

**282.** When a notice has been issued under this chapter or Schedule XV, requiring any person to construct or alter a drain, the Corporation may themselves cause to be constructed or altered so much of the drain as runs through, over or under any municipal drain, public aqueduct or public street, and the expenses thereby incurred shall be paid by the owner of the drain.

Power to Corporation to provide new drains, etc., in executing works.

**283.** (1) In executing any drainage-works under this chapter, the Corporation shall provide and make, out of the Municipal Fund, a sufficient number of convenient ways, water-courses and drains in substitution for any that may be interrupted, injured or rendered useless by reason of the execution of such works;

and, if any difference arises between the Corporation and the persons affected, the same shall be settled by the Court of Small Causes having jurisdiction in the place where such works are executed, on application to be made to it for this purpose.

(2) The decision of the said Court of Small Causes shall, subject to the provisions of section 6 of the Presidency Small Cause Courts Act, 1882, or section 25 of the Provincial Small Cause Courts Act, 1887, as the case may be, be final.

XV of  
1882.  
IX of  
1887

of 1922.]

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Secs. 284-286.)

**284.** Subject to the provisions of this chapter and of Schedule XV,—

General power to Corporation in respect of house-drains, cesspools, privies and urinals.

(a) all house-drains, as well within as without the premises to which they belong, all cesspools and all privies and urinals shall, as regards their site, construction, materials and dimensions and the arrangements for flushing the same, be under the survey and control of the Corporation, and

(b) the Corporation may, by written notice, require the owner of any premises in which any house-drain, cesspool, privy or urinal is situated, to alter, pave, repair or ventilate the same or to keep it in such a state of repair as to admit of its being sufficiently cleaned, or to supply it with water, or connect it with a sewer, or stop up or demolish it.

**285.** When, under the provisions of this chapter or of Schedule XV, the Corporation may require the owner of any premises to carry out any work, they may, if they consider it desirable so to do, require the occupier of the said premises to carry out such work, and the occupier shall be bound to comply with the requisition:

Power to Corporation to require occupier to carry out work in place of owner.

Provided that, except in the case of a special agreement to the contrary, such occupier may deduct the amount of the expenses reasonably incurred or paid by him in respect of such work from the rent payable to the owner, or may recover the same from him in any court of competent jurisdiction.

**286.** (1) When, under the provisions of this chapter or of Schedule XV, any person may be required or is liable to execute any work, the Corporation may, if it appears to them to be expedient and necessary so to do, themselves cause such work to be executed, after giving such person an opportunity of executing the same within forty-eight hours of the receipt of a notice to this effect.

Power to Corporation to execute work after giving person liable notice.

(2) The expenses of any work so executed shall be payable by the said person, unless the Corporation direct the payment of such expenses out of the Municipal Fund.

*(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—sec. 287.)**General prohibitions.***Prohibition of certain acts.****287. No person shall,—**

- (a) in contravention of any of the provisions of this chapter or of Schedule XV, or of any notice issued or direction given thereunder, or without the written permission of the Corporation,  
in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change,  
any drain, ventilation-shaft or pipe, cesspool, privy, urinal, or bathing or washing place or any trap, covering or other fitting or appliance connected therewith; or,
- (b) without the written permission of the Corporation, renew, rebuild or unstop any drain, ventilation-shaft or pipe, cesspool, privy, urinal, or bathing or washing place or any fitting or appliance, which has been, or has been ordered to be, discontinued, demolished or stopped up under any of the said provisions; or,
- (c) without the written permission of the Corporation, make any encroachment upon, or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, privy, urinal, or bathing or washing place; or
- (d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth or ashes, or any substance or matter, by which or by reason of the amount of which such drain is likely to be obstructed; or
- (e) pass, or permit or cause to be passed, into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain was not provided; or
- (f) cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or workplace, or from any building or place in which steam, water or mechanical power is employed, any hot water, steam or fumes, or trade effluents or any liquid which would prejudicially affect the drain

*(Part V.—Chapter XIX.—Licensed plumbers.—  
Secs. 288-290.)*

or the disposal by sale or otherwise of the sewage conveyed along the drain, or which would, from its temperature or otherwise, be likely to create a nuisance.

**CHAPTER XIX.**

**LICENSED PLUMBERS.**

(1) The Corporation may from time to time grant to any person they think fit a license to act as a plumber for the purposes of Chapter XVII or Chapter XVIII.

*Power to Corporation to license plumbers.*

(2) Every such license shall be for a renewable period of three years.

**288.** The Corporation may make rules for the guidance of licensed plumbers, and a copy of all such rules, for the time being in force, shall be written on the back of every license granted under section 288.

*Rules for guidance of plumbers.*

**290.** A plumber holding a license for the purposes of Chapter XVIII—

*Powers and duties of plumber licensed for drainage works.*

- (a) may prepare, for the approval of the Corporation, plans and estimates for the drainage of premises;
- (b) may, with the sanction of the Corporation, carry out drainage works in accordance with this Act and the rules or by-laws made thereunder;
- (c) shall furnish the Corporation with plans of all drainage works carried out under clause (b);
- (d) may carry out any necessary repairs to municipal drainage works;
- (e) may, when the owner or occupier of any premises has failed to comply with a notice requiring such owner or occupier to provide for the effectual drainage of such premises and if so directed by an order from the Corporation, carry out such works as may be necessary for the effectual drainage of the said premises; and
- (f) shall, when any works have been executed under clause (e), furnish the Corporation with plans of the same and with a statement of the cost of such works.

(Part V.—Chapter XIX.—Licensed plumbers.—  
Secs. 291-294.)

Prohibition of  
work by other  
than licensed  
plumber.

**291.** (1) No person other than a licensed plumber shall—

- (a) execute any work in connection with the laying on of water from any mains of the Corporation to any land or building, or in connection with the extension of such mains or the supply of additional fittings after water has been so laid on, or
- (b) make any underground drain communicating with the public sewers, or
- (c) do any work in connection with such drain.

(2) No owner or occupier of any land or building shall cause or allow any work referred to in sub-section (1) to be executed by any person other than a licensed plumber, and such work shall be liable to be dismantled at the discretion of the Corporation without prejudice to the right of the Corporation to prosecute under this Act the owner or occupier, as the case may be.

Power to  
Corporation to  
prescribe  
enumeration of  
plumbers.

**292.** (1) The Corporation may from time to time prescribe the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of Chapter XVII or Chapter XVIII.

(2) No licensed plumber shall, for any work referred to in sub-section (1), demand or receive more than the charge prescribed therefor under that sub-section.

Control over  
licensed plumbers  
and their works  
and charges.

**293.** The Corporation shall provide for—

- (a) the exercise of an adequate control over all licensed plumbers;
- (b) the inspection of all work carried out by them; and
- (c) the hearing and disposal of complaints made by owners or occupiers of premises with regard to the quality of the work done by, the materials used by, any delay in the execution of the work by, or the charges made by, licensed plumbers.

Prohibitions  
and suspension  
or cancellation  
of license.

**294.** (1) No licensed plumber shall infringe any of the rules made under section 289, or execute carelessly or negligently any work under this Act or under any rules or by-laws made thereunder or make use of bad materials, appliances or fittings.

(Part V.—Chapter XX.—Streets and public places.—  
Secs. 295-297.)

(2) If any licensed plumber contravenes sub-section (1), his license may be suspended or cancelled whether he be prosecuted under this Act or not.

CHAPTER XX.

STREETS AND PUBLIC PLACES.

*Proprietary rights of the Corporation.*

**295.** (1) All public streets and squares (not being <sup>1</sup>[the property of the Crown kept under the control of any Government, or the property and kept under the control of] the Commissioners for the Port of Calcutta or the Board of Trustees for the Improvement of Calcutta), including the soil, sub-soil, and the side-drains, footways, pavements, stones and other materials of such streets and squares, and all erections, materials, implements and other things provided for such streets or squares shall vest in and belong to the Corporation.

Public streets and squares vested in the Corporation and power to the Corporation to name such streets and squares.

(2) The Corporation may, from time to time, determine the name by which any public street or square is to be known.

*Maintenance, repair, protection and regulation of streets and public places.*

**296.** The Corporation shall cause the public streets vested in them to be maintained and repaired, and for those purposes may do all things necessary for the public safety or convenience, including the construction and maintenance of bridges, causeways and culverts.

Maintenance and repair of public streets by Corporation.

**297.** The Corporation shall, so far as they may consider it necessary to do so for the public convenience, cause such public streets, squares and gardens, as they may from time to time determine, to be watered, oiled or otherwise treated in a suitable manner, and for that purpose may provide such animals, water-carts, materials and other apparatus as they may think necessary.

Watering, etc., of public streets, squares and gardens.

<sup>1</sup>These words were substituted for the words "the property and kept under the control of the Government or " by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part V.—Chapter XX.—Streets and public places.—  
Secs. 298-300.)

Rules for  
maintaining,  
repairing, etc.,  
streets and  
public places.

**298.** Streets and public places shall be maintained, repaired, protected and otherwise regulated in accordance with the rules contained in Schedule XVI.

Power to  
Corporation to  
remove or alter  
verandah, etc.,  
or fixtures  
attached to  
building which  
project, etc.,  
over public  
street or  
land.

**299.** (1) When any verandah, platform or other similar structure or any fixture attached to a building so as to form part of the building, whether erected before or after the commencement of this Act, causes a projection, encroachment or obstruction over or on any public street or any land vested in the Corporation, they may, by written notice, require the owner or occupier of the building to remove or alter such structure or fixture.

(2) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

(3) If the owner or occupier of the building proves that any such structure or fixture was erected before the first day of June, 1863, or that it was erected on or after that day with the consent of any municipal authority duly empowered in that behalf, the Corporation shall, after such structure or fixture has been removed, make reasonable compensation to every person who suffers damage by the removal or alteration thereof.

Power to  
Corporation to  
cause wall to be  
removed or  
to remove other  
obstructions in  
public street.

**300.** (1) The Corporation may, after giving notice to him, require any person to remove any wall and may of their own motion remove any fence, rail, post, platform, or other obstruction, projection or encroachment (not being a portion of a building or fixture referred to in section 299) which has been erected or set up, and any materials or goods which have been deposited, in a public street or in or over any drain or aqueduct in a public street, whether the offender be prosecuted under this Act or not;

and the offender shall be liable for the payment of the expense of such removal.

(2) When under sub-section (1), the Corporation cause any wall to be removed or remove any other obstruction, projection or encroachment from land which forms part of a public street, no compensation shall be payable, but the Corporation shall be bound to provide proper means of access to and from the street if none exists already.

(Part V.—Chapter XX.—Streets and public places.—  
Secs. 301, 302.)

*Execution of works in streets.*

**301.** (1) When any work is being executed by the Corporation in any public street, they shall, so far as may reasonably be practicable, make adequate provision for—

Provision of facilities, and payment of compensation, when work executed by Corporation in public street.

- (a) the passage or diversion of traffic;
- (b) proper access to all premises approached from such street; and
- (c) any drainage, water-supply, or means of lighting which are interrupted by reason of the execution of such work.

(2) The Corporation shall pay compensation to any person, who sustains special damage by reason of the execution of any such work.

*Building-lines and street alignments for public streets.*

✓ **302.** (1) If the Corporation consider it expedient to prescribe for any public street a building-line or a street alignment, or both a building-line and a street alignment, they shall give public notice of their intention to do so:

Power to Corporation to prescribe building-line and street alignment.

Provided that no building-line shall ordinarily be prescribed for any street laid out and made before the commencement of this Act.

(2) Every such notice shall specify a period within which objections will be received; and a copy of the notice shall be sent by post to every owner of premises abutting on such street who is registered in respect of such premises in the books of the municipality:

Provided that failure or omission to serve such notice on any owner shall not invalidate proceedings under this section.

(3) The Corporation shall consider all objections received within the said period, and shall hear any objector who comes forward within such period as they may fix in this behalf, and may then make an order prescribing a building-line or a street alignment, or both a building-line and a street alignment for such public street.



(Part V.—Chapter XX.—Streets and public places.—  
Sec. 303.)

A register or book with plans attached shall be kept by the Corporation showing all public streets in respect of which a building-line or street alignment has been prescribed, and such register shall contain such particulars as to the Executive Officer may appear to be necessary and shall be open to inspection by any person upon payment of such fee as may from time to time be prescribed by the Corporation.

(4) A building-line shall not be prescribed so as to extend further back than the main front wall of any building (other than a boundary wall) abutting on the street at its widest part.

(5) Every order made under sub-section (3) shall be published in the <sup>1</sup>[*Official Gazette*], and shall take effect from the date of such publication.

Restrictions on  
erection of, or  
addition to,  
buildings or  
boundary  
walls within  
street alignment  
or building-  
line.

(1) No portion of any building or boundary wall shall be erected or added to within a street alignment prescribed under section 302:

Provided that the Corporation may, in their discretion, permit additions to a building to be made within a street alignment, if such additions merely add to the height of, and rest upon, and existing building or wall, upon the owner of the building executing, if required to do so by the Corporation, an agreement binding himself and his successors in interest—

(a) not to claim compensation in the event of the Corporation at any time thereafter calling upon him or such successors, by written notice, to remove any addition made to any building in pursuance of such permission, or any portion thereof, and

(b) to pay the expenses of such removal.

(2) If the Corporation refuse to grant the permission applied for to add to any building on the ground that the proposed site falls wholly or in part within a street alignment prescribed under section 302, and if such site, or the portion thereof which falls within such alignment, be not acquired by the Corporation within six months after the date of such refusal, they shall pay reasonable compensation to the owner of the site.

(3) No person shall erect or add to any building between a street alignment and the building-line without first obtaining the permission of the Corporation to do so:

<sup>1</sup>See foot-note 1 on p. 240, *ante*.

of 1923.)

*(Part V.—Chapter XX.—Streets and public places.—  
Secs. 304, 305.)*

Provided that it shall not be necessary to obtain permission under this sub-section to erect, between a street alignment and the building-line,—

- (a) a porch or balcony, or,
- (b) along not more than one-third of the frontage, an outhouse not exceeding fifteen feet in height.

(4) If the Corporation grant permission under sub-section (3), they may require the applicant to execute an agreement in accordance with the proviso to sub-section (1).

**304.** (1) The Corporation may at any time, after giving notice to the owner of the land of their intention, take possession of—

- (a) any land (abutting on a public street) upon which any portion of any building or wall, projecting beyond the front of the adjoining building or wall, on either side of such first-mentioned building or wall, has collapsed or been demolished or burnt down, and
- (b) any land not covered by buildings (including land on which a building has collapsed or been demolished or burnt down) which is situated within a street alignment prescribed under section 302,

Power to Corporation to take possession of, and add to street, land situated within prescribed alignment or covered by projecting

after making full compensation to the owner thereof for any direct damage which he may sustain thereby and shall take possession of any land as specified, in clause (b) if the owner thereof calls upon them to do so.

(2) Any land taken possession of under sub-section (1) shall forthwith be added to and become part of the said street, and shall vest in the Corporation.

*Explanation.*—The expression “direct damage”, as used in sub-section (1) with reference to land, means the market value of the land taken and the depreciation, if any, in the ordinary market-value of the rest of the land resulting from the area being reduced in size; but does not include damage due to any particular use to which the owner may allege that he intended to put the land although such use may be injuriously affected by the reduction of the site.

**305.** The Corporation may, upon such terms as they think fit, allow any building or wall to be set forward for the purpose of improving the line of a public street.

Power to Corporation to set buildings forward to improve line of public street.

*(Part V.—Chapter XX.—Streets and public places.—  
Secs. 306-308.)*

*Opening, improvement and closing of public streets, squares  
and gardens.*

Power to  
Corporation to  
make, improve  
and close  
streets, squares  
and gardens.

**306.** The Corporation may—

- (a) lay out and make new streets, squares and gardens;
- (b) construct new bridges, causeways, culverts and sub-ways;
- (c) turn, divert, or temporarily or permanently close any public street or part thereof, or permanently close any public square or garden; and
- (d) widen, open, enlarge, or otherwise improve any public street, square or garden.

Power to  
Corporation to  
dispose of a  
permanently  
closed street,  
square or  
garden.

**307.** (1) When any public street, or part thereof, or any public square or garden is permanently closed under section 306, the Corporation may sell or lease the site of so much of the roadway and footpath as is no longer required, or the site of the square or garden, as the case may be, making due compensation to, or providing means of access for, any person who may suffer damage by such closing.

(2) In determining such compensation under section 523, the court shall make allowance for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street, square or garden, at or about the same time that the public street, square or garden, on account of which the compensation is paid, is closed.

*Projected public streets.*

Projected  
public streets.

**308.** (1) The Corporation may from time to time prepare schemes and plans of projected public streets, showing the direction of such streets, the street alignment and building-line on each side of them, their intended width, and such other details as may appear desirable.

(2) The width of such projected streets, inclusive of space for footpaths, shall not be less than forty feet or, in a *bustee*, twenty feet:

**(Part V.—Chapter XX.—Streets and public places.—  
Secs. 309-311.)**

**Provided that—**

- (a) the Corporation may, for special reasons, reduce the width of any projected street, but not so as to be less than thirty feet or in a *bustee* sixteen feet; and
- (b) this sub-section shall not apply in any case in which the projected street, or any part thereof, runs along an existing street and the Corporation consider it impracticable to widen the street to the extent of forty feet or twenty feet, as the case may be.

**309.** The provisions of sections 302 and 303 shall, with all necessary modifications, apply to public streets projected under section 308.

Provisions of sections 302 and 303 to apply to projected public streets.

*Acquisition of land and buildings.*

**310.** (1) The Corporation may acquire—

- (a) any land required for the purpose of opening, widening, extending or otherwise improving any public street, square or garden, or of making any new public street, square or garden, and
- (b) the buildings (if any) standing upon such land.

Power to Corporation to acquire land, and buildings for improvement of public streets, squares and gardens.

(2) The Corporation, with the sanction of the <sup>1</sup>[Provincial Government], and after giving due notice of their intention and an opportunity to any objector, who appears within such period as they may fix, to be heard in this connection, may acquire, in addition to any land and buildings acquired under sub-section (1), any land outside any proposed street alignment, with the buildings (if any) standing thereupon, which the Corporation may, for any of the purposes mentioned in sub-section (1), including the recoupment of the cost of any portion of the cost incurred for any such purposes, consider it expedient to acquire.

*Abandonment of acquisition.*

**311.** (1) In any case, in which the <sup>1</sup>[Provincial Government], have sanctioned the acquisition of land under section 310, sub-section (2), the owner of the land, or any person having an interest therein greater than

Abandonment of acquisition in consideration of special payment.

<sup>1</sup>See foot-note 2 on page 241, *ante*.

*(Part V.—Chapter XX.—Streets and public places.—  
Sec. 311.)*

a lease for years having seven years to run, may make an application to the Corporation, requesting that the acquisition of the land be abandoned in consideration of the payment by such person of a fee to be fixed by the Corporation in that behalf.

(2) The Corporation shall admit every such application if it reaches them before the time fixed by the Collector under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land: I of 1894.

Provided that unless the application is made by all the persons who have an interest in the land greater than a lease for years having seven years to run, the application shall not be deemed to be admitted unless the person applying undertakes to pay in one instalment the full fee payable under sub-section (3) and thereafter pays such fee.

*Explanation.*—A mortgagee shall not be deemed to be a person having an interest in the land greater than a lease for years having seven years to run.

(3) If the Corporation decide to admit any such application, they shall forthwith inform the Collector, and the Collector shall thereupon stay proceedings for the acquisition of the land, for such period as the Corporation may request, and the Corporation shall proceed to fix a fee in consideration of which the acquisition of the land may be abandoned.

(4) In fixing the fee to be paid in consideration of the abandonment of the acquisition of the land, the Corporation shall, so far as to them may appear to be practicable, fix a sum which in their opinion represents two-thirds of the increment in the value of the land, which will in their opinion accrue to that land as a result of the improvements effected in the locality by the scheme for the purposes of which the acquisition has been sanctioned.

(5) Such fee shall be and remain a charge on the land, in respect of which it has been fixed, until the repayment thereof with interest in the manner hereinafter provided and shall be payable by the applicant on or before a date to be fixed by the Corporation in this behalf; and such date shall not be less than four years from the publication of the notification under section 6 of the Land Acquisition Act, 1894, nor shall such date be a date before that on which the scheme is declared by the Corporation to be completed in so far as it affects such land.

of 1923.]

*(Part V.—Chapter XX.—Streets and public places.—  
Sec. 312.)*

(6) Before the date so fixed, the person from whom the Corporation have arranged to accept the said fee, may, if the Corporation are satisfied that the security offered by him is sufficient, execute an agreement with the Corporation either—

- (i) to leave the said fee outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest, at a rate not exceeding seven *per cent. per annum*, the said interest to run from the date fixed under sub-section (5), or
- (ii) to pay the said fee by such number of equal yearly or half-yearly instalments of principal or of principal and interest, as may be approved by the Corporation, interest in both cases being calculated at a rate not exceeding seven *per cent. per annum* on the amount outstanding.

(7) When the said fee has been paid on or before the date fixed under sub-section (5), or when an agreement has been executed in pursuance of sub-section (6) in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(8) If the said fee be not paid on or before the date fixed under sub-section (5), the Collector shall then proceed to acquire the land.

(9) If any sum payable under an agreement executed in pursuance of sub-section (6) be not paid on the date on which it is due, or on such later date as the Corporation may in their discretion fix in this behalf, so much of the fee fixed by the Corporation under sub-section (3) as is still unpaid, shall be payable on that date, in addition to the said sum.

(10) At any time after an agreement has been executed in pursuance of clause (i) of sub-section (6) any person may pay off the balance outstanding of the charge created thereby, with interest due, if any, at a rate not exceeding seven *per cent. per annum*, up to the date of such payment.

**312.** When an agreement has been executed by any person in pursuance of section 311, sub-section (6), in respect of any land, and any money payable in pursuance of that section is not duly paid, the same shall be recoverable by the Corporation (together with interest up to the date of realization, at a rate not exceeding seven *per cent. per annum*), under the provisions of this Act;

Recovery of money payable in pursuance of section 311.

[Ben. Act 143]

(Part V.—Chapter XX.—Streets and public places.—  
Secs. 313, 314.)

and, if not so recovered, the Corporation may, after giving public notice of their intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

Agreement or payment under section 311 not to bar acquisition under a fresh declaration.

**313.** If any land in respect of which an agreement has been executed, or a payment has been accepted, in pursuance of section 311, sub-section (6), be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration, published under section 6 of the Land Acquisition Act, 1894. I of 1894.

*Special provisions as to private streets.*

Making of new private streets.

**314.** (1) Any person intending to make or lay out a new private street shall send to the Corporation a written notice, with plans and section showing the following particulars of the proposed street, namely:—

- (a) the level, width and alignment thereof, and
- (b) the arrangements to be made for levelling, paying, metalling, flagging, channelling, sewerage, draining and lighting the street.

(2) The provisions of this Act as to the width of public streets and the height of buildings abutting thereon, and as to projected public streets, shall respectively apply in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the Corporation:

Provided that the Corporation may allow a private street to be made or laid out of a width less than forty feet but not less than twenty feet, and, if the street is less than two hundred feet in length, the maximum width of such street may ordinarily be taken to be thirty feet instead of forty feet.

(3) Within ninety-days after the receipt of any notice under sub-section (1), the Corporation shall either sanction the making of the street, or disallow it, or ask for further information with respect to such street.

of 1923.

*(Part V.—Chapter XX.—Streets and public places.—  
Secs. 315, 316.)*

(4) Such sanction may be refused—

- (i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Corporation likely to be made within a reasonable period, for carrying out any general scheme of street improvement, or
- (ii) if the proposed street does not conform to the provisions of this Act referred to in sub-section (2), or
- (iii) if the proposed street not designed so as to connect at one end with a street which is already open.

(5) If further information is asked for under sub-section (3), no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information, and such orders shall be passed within ninety days of the receipt of such further information.

(6) If within ninety days after the receipt of any notice under sub-section (1), or within ninety days after the receipt of any further information asked for under sub-section (3), the Corporation has not refused sanction to the making of the private street, it shall be deemed that sanction to the same has been granted.

**315.** Except as provided in sub-section (6) of section 314, no person shall make or lay out any street referred to in sub-section (1) of that section,—

Prohibition of breach of section 314.

- (a) until he has obtained the sanction of the Corporation under that section, or
- (b) in contravention of any orders made thereunder.

**316.** (1) If any person makes or lays out any street referred to in section 314, sub-section (1), without having obtained the sanction of the Corporation under that section, or in contravention of any orders made thereunder, they may, whether or not the offender be prosecuted under this Act, by written notice,—

Alteration or demolition of street made in breach of section 314.

- (a) require the offender to show sufficient cause, by a written statement signed by him and sent to the Corporation on or before such day as may be specified in the notice, why such



(Part V.—Chapter XX.—Streets and public places.—  
Secs. 317, 318.)

street should not be altered to their satisfaction, or, if such alteration be impracticable, why such street should not be demolished, or

- (b) require the offender to appear before them, either personally or by a duly authorised agent, on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause, to the satisfaction of the Corporation, why such street should not be so altered or demolished, they may cause the street to be so altered or demolished, and the expenses thereof shall be paid by such person.

Levelling, etc.,  
of private  
streets.

**317.** (1) If any private street or any part thereof be not levelled, paved, metalled, flagged, channelled, sewered, drained and lighted to the satisfaction of the Corporation, they may, by written notice to the owner of such private street or the respective owners of the land fronting, adjoining, or abutting upon such street or part, as the case may be, from time to time require them to level, pave, metal, flag, channel, sewer, drain and light such street or part.

(2) If such notice be not complied with and the Corporation, under section 510, sub-section (2), execute the works mentioned or referred to therein, the expenses thereby incurred shall be paid by the owner of such private street or the owners in default, in such proportion as may be settled—

- (a) by the Corporation, or  
(b) in case of dispute, by the Court under section 523.

Power to  
Corporation  
to take over  
private streets.

**318.** If any private street which conforms to the provisions of this Act referred to in section 314, sub-section (2), be levelled, paved, metalled, flagged, channelled, sewered, drained and lighted to the satisfaction of the Corporation, and if a majority of—

- (a) the owners of land or buildings in such street,  
or  
(b) the owners of the street, or  
(c) the owners who have paid the expenses referred to in section 317, sub-section (2),

*The Calcutta Municipal Act, 1823.*

*(Part V.—Chapter XXI.—Buildings.—Secs. 319-321.)*

signify in writing their consent thereto, the Corporation shall declare the same, by written notice put up in any part of such street, to be a public street, and thereupon the same shall become a public street and shall vest in the Corporation:

Provided that, where a private street has been in existence for not less than thirty years and is used by the people of the locality as a thoroughfare, the Corporation may declare such street to be a public street even though it does not strictly comply with the provisions of this chapter, if—

- (a) the owners of lands and buildings in such street, or
- (b) the owners of the street,

signify in writing their consent thereto.

## CHAPTER XXI.

### BUILDINGS.

**319.** No piece of land shall be used as a site for the erection of a new building, and no new building shall be erected, otherwise than in accordance with—

Use of building-sites and erection of new buildings.

- (a) the provisions of this chapter and of Schedule XVII, and
- (b) any orders, rules or by-laws made under this Act,

relating to the use of building-sites or the erection of new buildings, as the case may be.

**320.** If any question arises as to what, for the purposes of this Act, shall be deemed to be the site of any proposed masonry building, the Corporation shall determine the same, and their decision shall be final.

Corporation to determine site of proposed masonry building.

### *Licensed building surveyors.*

**321.** (1) The Corporation may from time to time grant to any person they think fit a license to act as a licensed building surveyor for the purposes of this chapter.

Licensing of building surveyors.

## Page 206-

In sub-section (2) of section 321, for the words "required in persons" substitute the words "required of persons".

(Substituted by West Ben. Act XIX of 1949, section 2 and the First Schedule.)

[No. 44, dated the 2nd August, 1949.]

(3) Every such license shall be for a renewable period of three years.

Rules for guidance of licensed building surveyors.

**322.** (1) The Corporation may make rules for the guidance of licensed building surveyors, and a copy of all such rules, for the time being in force, shall be written on the back of every license granted under section 321.

(2) The Corporation may from time to time prescribe a scale of fees of licensed building surveyors in respect of any class of buildings, to be made applicable in the absence of a written contract to the contrary.

Power to Corporation to decline plans, etc., made by persons other than licensed building surveyors.

**323.** The Corporation may decline to accept any plan, elevation or section, submitted with any application for permission to erect a new building, unless such plan, elevation or section has been prepared by, and bears the signature of, a licensed building surveyor.

*Buildings generally.*

Power to Corporation to regulate future erection of certain classes of buildings in particular streets or localities.

**324.** (1) The Corporation may at any time give public notice of their intention to declare that, in any street, portion of a street or locality specified in the notice,—

- (a) the elevation and construction of the frontage of all new buildings (other than huts) thereafter erected shall, in respect of their architectural features, be such as the Corporation may consider suitable to the locality, or
- (b) the erection of only detached buildings will be allowed, subject to the provisions of this Act relating to detached buildings, or
- (c) the erection of shops, or of any particular class of shops, or of buildings of the warehouse class, will not be allowed without the special permission of the Corporation, or
- (d) the erection of buildings of the warehouse class will be allowed, subject to the provisions of this Act relating to such buildings, or
- (e) the erection of huts will not be allowed without the special permission of the Corporation.

of 1923.]

(Part V.—Chapter XXI.—Buildings.—  
Secs. 325, 326.)

(2) A copy of such notice shall be served by the Corporation on all owners of buildings and lands in such street or portion thereof or in such locality, as the case may be, who are registered on the books of the Corporation as such:

Provided that no failure to serve such notice shall invalidate or affect any declaration published under sub-section (5).

(3) No objections to any such declaration shall be received after a period of three months from the publication or the service of such notice.

(4) The Corporation shall consider all objections received within the said period, and shall hear any objectors who may appear before them within such period as they may fix in this behalf, and may prepare a declaration relating to the streets or localities referred to in the notice.

(5) When any such declaration has been so prepared, it shall be published in the <sup>1</sup>[*Official Gazette*], and shall take effect from the date of such publication.

(6) No person shall erect any new building in contravention of any such declaration.

**325.** (1) Save with the special permission of the Corporation, no new building (other than a hut) shall be erected unless—

Masonry building not to be erected without special permission in certain

(a) the site of such building abuts on a public street, or a projected public street, or a private street duly sanctioned and constructed under section 314, or existing before the commencement of this Act, or

(b) there is access to the building from any such street by a passage or pathway, appertaining to such site, and not less than twelve feet wide at any part.

(2) No building shall be erected so as to deprive any masonry building of the means of access as provided in this section.

For the purpose of bringing any public building, except a building, which is intended solely for and is used solely as a place of public worship, into conformity with the provisions of this Act relating to new public buildings, the Corporation may, by written notice, and after giving him an opportunity of being heard, require the owner of the building to make such

Power to Corporation to require alteration of existing public building.

<sup>1</sup>See foot-note 1 on p. 240, ante.

*The Calcutta Municipal Act, 1923.*

[*Ben. Act 118*]

*(Part V.—Chapter XXI.—Buildings.—*

*Secs. 327-330.)*

alterations therein for the purposes of sanitation and the safety of the public or of the inmates thereof as may be specified in the notice.

External doors  
of public

**327.** The Corporation may, by written notice, require the owner of any public building to provide the building with external doors or doorways of such number, height and width as the Corporation may consider necessary, or to cause the external doors thereof to be so constructed or altered as to open outwards.

Prohibition of  
change in user  
of a building.

(1) Save with the special permission of the Corporation, no person shall use a building or a substantial part of a building erected for use as, and belonging to, any one class of buildings, as a building of any other class in such a manner that the building or part thereof so used will not be in conformity with the provisions of this Act, or of any rules or by-laws, made thereunder, relating to buildings of that other class:

Provided that no change made by this Act in the classification of buildings as in force under the Calcutta Municipal Act, 1899, shall have the effect of preventing the use of a building for the purposes for which it was declared to be intended to be used at the time when the plans of such building were sanctioned.

*Ben. Act  
III of  
1899.*

(2) The provisions of sub-section (1) shall not apply to the use as a shop of a building or a substantial part of a building which was not erected for such use:

Provided that if, in any street, portion of a street or locality in which the erection of shops is not allowed under clause (c) of sub-section (1) of section 324, any such building or part thereof is used as a shop without the special permission of the Corporation, they may, by written notice, require the owner or occupier of such shop to close the same.

In case of  
dispute  
Corporation to  
decide what  
is to be deemed  
a substantial  
part of a  
building.

**329.** If any dispute arises as to what portion of a building shall be deemed to be a substantial part thereof for the purposes of this Act, it shall be referred to the Corporation, whose decision shall be final.

*Application of Act to alterations of, and additions to,  
buildings.*

**330.** Subject to the provisions of section 331, the provisions of—

(a) this chapter,

(b) Schedule XVII, and

(Part V.—Chapter XXI.—Buildings.—  
Secs. 331-333.)

(c) any orders, rules and bye-laws made under this Act,

relating to the erection of new buildings, shall, subject to the rules in Part X of the said Schedule XVII, apply to every alteration of, or addition to, any building, and to any other work (except that of necessary repairs not involving any of the works specified in rule 92, of the said schedule) made or done for any purpose in, to, or upon any building.

*Explanation.*—No work of re-erection or re-construction which would constitute any building a new building under sub-clauses (b), (c) or (d) of clause (46) of section 3 shall, for the purposes of this section, be deemed to be an alteration of, or addition to, or any other work made or done to or upon, such building, but in the case of such re-erection or re-construction the provisions relating to the erection of new buildings as referred to in this section shall apply to the whole of the said new building.

**331.** In the case of an erection of any new building as defined in sub-clauses (b), (c) or (d) of clause (46) of section 3, and in the case of any addition or alteration or other work referred to in section 330, such relaxation of the provisions of this chapter and Schedule XVII may be made as the Corporation may think fit:

Power to relax provisions of chapter and Schedule XVII.

Provided that—

- (1) no such relaxation shall apply to cases other than those specifically mentioned in rule 94 of Schedule XVII, and
- (2) such relaxations are not likely prejudicially to affect the sanitation or ventilation of the building or other buildings in its vicinity.

**332.** The Corporation shall not refuse sanction to the erection of a boundary wall exceeding ten feet in height or to any addition to any boundary wall so as to make it exceed ten feet in height on the ground that such boundary wall or such addition would cause interference with an existing easement in favour of, or prevent the acquisition of an easement by, the owner of adjacent premises.

Erection of, or addition to, boundary wall affecting an easement.

*Exemptions.*

**333.** The following buildings shall be exempted from the operation of this chapter, namely,—

Exemptions.

- (a) any building erected and used, or intended to be erected and used, exclusively for the purpose of accommodating a pump for pumping

(Part V.—Chapter XXI.—Buildings.—  
Chapter XXII.—Bustees.—Secs. 334, 335.)

water to the higher storeys of a building, or exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary if the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building;

- (b) any building erected or intended to be erected by, or with the sanction of, the Corporation, for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous disease; and
- (c) any hoarding or like means of protection (other than a masonry wall) which the owner of any premises certifies to the Executive Officer not less than seven days after its erection to have been erected for the purpose of preventing the threatened acquisition of any easement over his own premises or any portion thereof, provided that the stability of such hoarding or other means of protection is certified by the Executive Officer.

Erection and use of temporary building to be approved by Corporation.

**334.** (1) No building shall be erected or used for a temporary purpose without the approval of the Corporation, or otherwise than in accordance with any by-laws made in this behalf under this Act.

(2) If any building erected and used for a temporary purpose is not used strictly for such purpose and in accordance with any by-laws made under this Act, the building may be demolished by the Corporation at the expense of the owner thereof whether he is prosecuted under this Act or not.

## CHAPTER XXII.

### BUSTEES.

#### *Preliminary.*

**335.** The Corporation may define the external limits of any *bustee*, and may from time to time alter such limits.

(Part V.—Chapter XXII.—Bustees.—Secs. 336,337.)

**336.** None of the powers conferred by any of the following sections of this chapter shall be exerciseable in respect of—

Restriction on application of this chapter to certain bustees or to masonry buildings in bustees.

- (a) any *bustee* the total area of which, as comprised within the limits defined under section 335, is less than two *bighas*, or
- (b) any masonry building existing in a *bustee* at the time when a standard plan is approved or alignments are prescribed under section 360 for such *bustee*, as the case may be.

*Improvement of bustees.*

**337.** (1) Notwithstanding anything contained in section 336, the Corporation may, for sanitary reasons, require the owner of any *bustee* of which the total area as comprised within the limits, defined under section 335 is more than ten *cottahs* but less than two *bighas*,—

Power to Corporation to require owner of bustees of area between ten cottahs and two bighas to carry out certain improvements

- (a) to open up and construct such passages, not exceeding twelve feet in width, between the huts, and to provide such surface drains and latrines for the use of the tenants of the *bustee*, as the Corporation may think necessary, and
- (b) to remove the whole or any portion of a hut, provided that the owner of the hut shall be entitled to receive from the Municipal Fund such compensation calculated according to the estimated value of the structure removed, as the Corporation may determine.

(2) When the Corporation propose to issue a requisition in respect of any *bustee* under sub-section (1), they shall prepare a standard plan showing the proposed improvements, and may then, by written notice, call on the owner of the *bustee* to show cause why the *bustee* should not be improved within a date to be fixed in conformity with the said plan.

(3) The provisions of sections 345, 346, 347, 352, 355, 356 and 359 shall, with all necessary modifications, be deemed to apply in the case of every requisition issued under sub-section (1).



*(Part V.—Chapter XXII.—Bustees.—Sec. 338.)*

Power to  
Corporation to  
require  
preparation of  
standard plan  
by owner  
of bustees.

**338.** (1) The Corporation may at any time, if it appears to them that any *bustee*, for sanitary reasons, requires improvement, serve a written notice upon the owner of such *bustee* requiring him to prepare and submit a plan of the *bustee*, to the scale of twenty-five feet to the inch, showing—

- (a) the manner in which the *bustee* should be laid out, with the huts standing in regular lines and with a free passage, in front of and behind each line, of such width as may be necessary for proper ventilation and for scavenging,
- (b) the drains for the general use of the tenants of the *bustee*,
- (c) the means of lighting, common water-supply, bathing arrangements (if any) and common privy accommodation to be provided for the use of the tenants,
- (d) the streets and passages which are to be maintained for the benefit of the tenants,
- (e) the tanks, wells and low lands which are to be filled up and the tanks which are to be conserved, and
- (f) any other proposed improvements:

Provided that when there are two or more owners of a *bustee*, the Corporation may require them to prepare and submit a joint plan of the *bustee*.

(2) The streets referred to in clause (d) of subsection (1) shall be not less than sixteen feet wide and ordinarily not more than two hundred feet apart, and the passages referred to in that clause shall be not less than twelve feet wide.

(3) If there is any masonry building within the limits of the *bustee*, the said plan shall be so prepared as clearly to distinguish such building and the land pertaining to it.

(4) The said plan—

- (i) shall be considered by the Corporation and modified in such manner as may be required, and
- (ii) shall, when approved by the standard plan of be deemed to be

V.—Chapter XXII.—Bustees.—Sects. 339-341.)

— (1) If, after the service of a notice under section 338 on the owners of any *bustee*, such owners—

Preparation of standard plan by Corporation where owners disagree, etc.

- (a) do not agree among themselves in the preparation of a plan as required by such notice, or
- (b) for any reason prefer to have a plan prepared for them by the Corporation, or
- (c) fail to comply within sixty days with such notice,

✓ the Corporation shall cause the *bustee* to be inspected by two persons appointed in that behalf, one of whom shall be a medical officer of the Corporation or a person holding the diploma of Public Health or such other qualification as may be prescribed by the Corporation in this behalf, and the other an engineer, and the Corporation on receipt of their report shall cause a plan to be prepared to the scale and showing the particulars prescribed in the said section.

✓ (2) When a plan has been prepared under sub-section (1), the Corporation shall fix a day for the hearing of objections (if any) made by or on behalf of the owners of the *bustee* and the owners of huts or masonry buildings therein,

and, after hearing such objections, may, in their discretion, approve such plan either with or without modifications.

(3) Every plan of a *bustee*, approved under sub-section (2) shall be deemed to be the standard plan of the *bustee*.

(4) When the Corporation cause a plan to be prepared under sub-section (1), they may charge the said owners therefor at a rate not exceeding five rupees *per bigha*.

**340.** When the owner of a *bustee* has been required under section 338 to prepare a plan, no new building which is a hut shall be erected and no hut shall be added to within the *bustee* until a plan has been prepared and approved under that section or under section 339.

Suspension of building pending preparation of standard plan.

**341.** When a standard plan has been approved for any *bustee* under section 338 or section 339, no new building which is a hut shall be erected and no hut shall be added to in such *bustee* unless the hut, or the portion to be added, as the case may be, occupies a site, or portion of a site, marked in the standard plan as the site for a hut.

Prohibition of building contrary to standard plan.

## (Part V.—Chapter XXII.—Bustees.—Secs. 342-344.)

Power to Corporation to require removal of hut not in conformity with standard plan.

**342.** (1) When a standard plan has been approved for any *bustee* under section 338 or section 339, the Corporation may at any time, by written notice, require the owner of any hut in such *bustee*, which is not in conformity with the standard plan, to remove the whole or any portion of such hut.

(2) When a hut or portion of a hut has been removed in compliance with a requisition made under sub-section (1), the owner thereof shall be entitled to receive from the Municipal Fund such compensation calculated according to the estimated value of the structure removed, less the value of the materials, if the owner elects to take these, as the Corporation may determine.

Power to Corporation to require carrying out of other improvement in conformity with standard plan.

✓ **343.** (1) The Corporation may at any time, by written notice, require the owner of any *bustee* for which a standard plan has been prepared under section 338 or section 339—

(a) to construct the drains, privies, streets and passages, provide the means of lighting, water-supply and common bathing arrangements and carry out the other improvements shown in such plan, so far as may be practicable having regard to the existing arrangement of the huts, and

(b) if any tank, well or low land is shown in such plan as to be conserved or filled up, to conserve or fill up such tank, well or low land.

(2) Until such notice is complied with, the Corporation may refuse to sanction the erection of a new building which is a hut or the making of any addition to any hut in the *bustee*.

Inspection, report and preparation of standard plan by registered medical practitioner and engineer, in cases requiring expedition.

**344.** (1) If it appears to the Corporation that any *bustee*,—

(a) by reason of the manner in which the huts are crowded together, or

• (b) for any other reason,

is in such an unhealthy condition that the procedure provided by the foregoing sections of this chapter would be too dilatory to meet the emergency,

they may, after giving notice to the owners of the *bustee*, cause the *bustee* to be inspected by two persons appointed in that behalf, one of whom shall be a medical officer of the Corporation or a person holding the diploma of Public Health or having such other

**(Part V.—Chapter XXII.—Bustees.—Sec. 344.)**

qualifications as may be prescribed by the Corporation in this behalf, and the other an engineer. In appointing such persons the Corporation shall consider any proposals made by the owner of the *bustee* in this connection.

(2) The said person shall forthwith—

(a) make, sign and submit a written report on the sanitary condition of the *bustee*, and

(b) annex to the report a plan approved by them as a proper standard plan of such *bustee*, and

(c) certify—

(i) which of the improvements required to bring the *bustee* into conformity with such plan should be taken in hand forthwith in consequence of the unhealthy condition of the *bustee*, and

(ii) which (if any) of such improvements should be deferred for action under the foregoing sections of this chapter.

(3) The improvements referred to in sub-clauses (i) and (ii) of sub-section (2) shall be specified in two separate schedules, which shall be annexed to the report and called Schedule A and Schedule B, respectively.

(4) The said schedules shall clearly indicate—

(a) the huts which should wholly or in part be removed,

(b) the streets, passages and drains which should be constructed,

(c) the means of lighting, water-supply, common bathing arrangements and common privy accommodation to be provided for the use of the tenants,

(d) the tanks, wells and low lands which should be filled up,

(e) any other improvements which the two persons appointed under sub-section (1) may consider necessary in order to remove or abate the unhealthy condition of the *bustee*, and

(f) any masonry building within the *bustee*, and any land pertaining to such building which it may be necessary to purchase or acquire for the purpose of making such streets or passages, or effecting any suc

## (Part V.—Chapter XXII.—Bustees.—Secs. 345-347.)

(5) A report (together with the schedules annexed thereto) made and signed under this section by any two persons appointed under sub-section (1) shall be sufficient evidence of the result of such inspection.

Approval by Corporation of standard plan and schedules annexed to such report.

**345.** (1) The Corporation shall consider every report (together with the plan and Schedules A and B annexed thereto) made under section 344, and, after hearing the objections (if any) of the owner of the *bustee* in respect of which the report has been made, and of any owner of any hut which is required to be demolished or altered and of the owner of any masonry building which is to be dealt with under sub-section (4) of section 344, may approve such plan and schedules after making such modifications (if any) therein as they may think fit.

(2) The plan so approved shall be deemed to be the standard plan of such *bustee*.

Power to Corporation to require owners or occupiers to carry out improvements specified in Schedule A.

**346.** When Schedule A, annexed to a report made under section 344, has been approved under section 345, the Corporation may cause a written notice to be served upon—

- (a) the owners of the huts referred to in such Schedule A, or
- (b) the owners of the *bustee* in which such huts are situated,

requiring them to carry out all or any of the improvements specified in that schedule or any portion of such improvements.

Payment of expenses incurred in carrying out improvements.

**347.** When any improvements required by a notice under section 346 are carried out by the Corporation under section 510, all expenses incurred thereby, including such reasonable compensation as the Corporation may think fit to pay to the owners or occupiers of huts removed,

shall be paid by the owner of the *bustee* to the Corporation and shall constitute a charge upon such *bustee*:

Provided that, notwithstanding anything contained in section 516, if it appears to the Corporation that any such owner is unable, by reason of poverty, to pay such expenses or any portion thereof, in the case of expenses relating to work which should, in the opinion of the Corporation, have been done by the owners or occupiers of huts within the *bustee*, they may order the same or any portion thereof to be paid out of the Municipal

(Part V.—Chapter XXII.—Bustees.—Secs. 343-350.)

Fund, and in the case of expenses which should be paid by the owner of the *bustee*, they may order the same or any portion thereof to be advanced out of the Municipal Fund, but thereafter to constitute a charge upon such *bustee*.

✓ 343. (1) If, in carrying out any improvement as provided in section 346, the Corporation cause any hut or portion of a hut to be pulled down, they shall—

Disposal by the Corporation of materials of huts pulled down.

(a) cause the materials of such hut or portion of a hut to be given to the owner of the hut if such owner elects to take them; or

(b) if the owner does not elect to take the materials, or if the owner be unknown or the title to the hut be disputed, cause such materials to be sold, and hold in deposit the proceeds of the sale, together with any sum awarded as compensation under section 347.

(2) Any amount held in deposit under clause (b) of sub-section (1) shall be so held by the Corporation until any person obtains an order from a competent Court for the payment to him of such amount.

(3) A Court of Small Causes shall be deemed to be a competent Court for the purposes of this section.

344. The Corporation may, at any time after the receipt of a report made under section 344, purchase or acquire—

Power to Corporation to purchase or acquire masonry buildings or land in *bustee*.

(a) any masonry building within such *bustee*, or

(b) any land appertaining to such building, or

(c) any such building, together with the land appertaining thereto or any portion thereof,

which is mentioned in that behalf in Schedule A or Schedule B annexed to such report.

350. When a standard plan of a *bustee*, and any Schedule B, annexed to the report made under section 344 with respect to that *bustee* have been approved under section 345,—

Application of sections 341 to 343 to *bustees* for which standard plan has been approved under section 345.

(a) the provisions of section 341 shall apply to such *bustee*, and

(b) the provisions of sections 342 and 343 shall apply to such *bustee* in respect of the improvements indicated in that schedule as provided in section 344, sub-section (4).

## (Part V.—Chapter XXII.—Bustees.—Sec. 351.)

Alternative power to Corporation to make standard plan, to purchase or acquire bustee and to carry out improvements themselves or through purchaser or lessee.

**351.** (1) Notwithstanding anything contained in sections 345 to 350, the Corporation may, after receipt of a report made under section 344 with respect to any *bustee*, and after giving an opportunity of being heard to the owner thereof, pass a resolution to the effect that the *bustee* is an unhealthy area and that, in their opinion, the purchase or acquisition of the *bustee*, or of any portion thereof, is necessary for the purpose of making the improvements referred to in the said report.

(2) When any such resolution has been passed, the Corporation shall make a plan for the improvement of the said *bustee* or portion thereof, together with such estimates as may be necessary for a due understanding of the same, and may then purchase or acquire the said *bustee* or portion thereof, and such plan shall be deemed to be the standard plan of the *bustee*.

(3) When any *bustee* or portion of a *bustee* has been so purchased or acquired, the Corporation shall, as soon as is reasonably practicable, either—

- (a) sell or let the same or part thereof to any person for the purpose and under the condition that he will, as respects the land so sold or leased to him, carry out the improvements shown in such standard plan, or
- (b) themselves bring the said *bustee* or portion thereof or any part of the same which has not been sold or leased under clause (a) into conformity with such standard plan, or
- (c) proceed under the provisions of section 468 to take measures for the erection of sanitary dwellings for the working classes, or for the poorer classes, or for both, on such land.

(4) Whenever the Corporation decide to sell or let under sub-section (3) any *bustee* or portion thereof so purchased or acquired from any person, they shall offer to the said person or his heirs, executors or administrators a prior right to purchase or take on lease such *bustee* when disposing of the same under sub-section (3), if such person applies in this behalf, at such rate and on such terms and conditions as may be fixed by the Corporation, if the Corporation consider that such a right can be given without detriment to the carrying out of the purposes of this Act. If more than one person applies to the Corporation that a *bustee* or portion thereof be sold or let to him, the Corporation shall determine which of such persons has the prior right to take such *bustee* under this section.

*The Calcutta Municipal Act, 1923.*

of 1923.

*(Part V.—Chapter XXII.—Bustees.—Secs. 352, 353.)*

(5) Whenever action is taken under clause (a) of sub-section (3), the provisions of sub-section (2) or sub-section (3) of section 471, as the case may be, shall be applicable.

**352.** (1) No standard plan approved for a *bustee* under this chapter shall, without the consent of the owner thereof, show more than—

Proportions of area of *bustees* to be shown in standard plan as streets, passages and open lands.

- (a) one-fourth of the whole area of such *bustee* as streets or passages, or
- (b) one-third of such area as open lands not to be built upon, whether such open lands be common ground, streets, passages or spaces behind a line of huts.

(2) In calculating the said proportions of one-fourth and one-third of any such area, no tank situated therein that has not been filled up shall be taken into account.

**353.** (1) When the land included in a *bustee* is owned by more owners than one, each owning one or more separate plots of such land, the standard plan approved under this chapter for such *bustee* shall, as far as practicable, provide—

Regulation of plots by standard plan, and compensation for adjustment of plots.

- (a) for one or more huts being completely contained in each such plot, and
- (b) for such proportion of each such plot being taken for streets, passages and open land as is specified in section 352.

(2) If a greater proportion of any one such plot than the proportion specified in section 352 is so taken, such standard plan shall indicate—

- (i) the compensation which shall be payable to the owner of such plot, and
- (ii) the persons who are liable to pay such compensation by reason of their benefiting by such greater proportion having been taken.

(3) If no person can equitably be called upon to pay such compensation, the same shall be paid by the Corporation.

(4) Any compensation payable under this section to the owner of any land in a *bustee* shall not be paid until such land has been brought into complete conformity with the standard plan.



(Part V.—Chapter XXII.—Bustees.—Secs. 354-356.)

Streets and passages shown in standard plan, if not public streets, to remain private.

**354.** (1) Every street or passage in a *bustee* which is shown in the standard plan approved under this chapter for that *bustee*, and which is not already a public street, shall, unless the Corporation and the owners of the land on which such street or passage is situated otherwise consent as provided in section 318, be deemed to be a private street; and the portion thereof which falls on the land of each owner shall belong to such owner:

Provided that any portion of any such street or passage which is situated on land purchased or acquired by the Corporation under section 349 shall remain the property of the Corporation.

(2) Every such private street shall, at all times, be kept open for scavenging purposes and for all other purposes of this Act in such manner as the Corporation may require, and shall also be kept open for the use of all the tenants of the *bustee*:

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908, no use of any such street shall, by reason of any lapse of time, be held to confer a right of way on the public so as to bring the street within the definition of a "public street" in clause (57) of section 3.

IX of 1908.

Bathing arrangements and privy accommodation in *bustee* as shown in standard plan to be kept open for use of tenants.

**355.** The bathing arrangements and privy accommodation in a *bustee*, which are shown in the standard plan approved under this chapter for such *bustee* as being common to the use of all or some of the tenants of the *bustee*, shall at all times be kept available for the use of such tenants:

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908, if at any time the land on which any such bathing arrangement or privy accommodation are provided ceases to form part of such *bustee*, no such use shall, by reason of any lapse of time, be held to confer any right on any person so as prejudicially to affect the rights of the owner of such land.

Owner of land in *bustee* to maintain certain conveniences on his land.

**356.** (1) The owner of any land in a *bustee*, for which a standard plan has been approved under this chapter, shall maintain in proper order and repair, to the satisfaction of the Corporation, such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works on such land as may be shown in the plan.

(2) The Corporation may, at any time, cause a written notice to be served upon such owner

(Part V.—Chapter XXII.—Bustees.—Sects. 357-359.)

him so to maintain such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works:

Provided that any convenience made by the owner of a hut for his own use shall, subject to such notice as aforesaid, be maintained by him and not by the owner of the *bustee*.

(3) If the Corporation are satisfied that any street, passage, drain, bathing arrangements, privy accommodation, means of water-supply or other work or any portion thereof, has been damaged by any tenant or tenants of the *bustee*, the Corporation may, if they think it desirable to do so, call upon such tenant or any one or more of such tenants by a written notice to repair such street, passage, drain, bathing arrangements, privy accommodation, means of water-supply or other work or portion thereof.

**357.** (1) The owner of any land in a *bustee*, for which a standard plan has been approved under this chapter, shall be deemed to be the occupier of—

- (a) all the streets, passages and common ground,
- (b) all drains provided for the use of more than one hut, and
- (c) the common bathing arrangements, common privies and means of lighting the *bustee*,

Rights of land-owner and hut-owner, respectively, over streets, land and drains shown in standard plan.

on such land, so far as the same are constructed in accordance with the standard plan.

(2) The owner of any hut in such *bustee* shall be deemed to be the occupier of—

- (i) the land on which such hut stands,
- (ii) the open space behind such hut which appertains thereto, and
- (iii) every drain, privy, means of lighting or water connection (if any) provided for the sole use of such hut.

When a *bustee* has been brought into conformity with the standard plan approved under this chapter for such *bustee*, it shall be deemed to be a remodelled *bustee*.

*Bustee* when to be deemed a remodelled *bustee*.

(1) The owner of any land included in a *bustee* and bearing a separate number in the assessment-book may, at any time, whether a standard plan for the *bustee* has been prepared under this chapter or not, send

Power to owner to take land out of the category of *bustees* in certain cases.

[Sec. 359.]

## (Part V.—Chapter XXII.—Bustees.—Sec. 359.)

a written notice to the Corporation that he intends to remove all the huts standing on such land :

Provided that the receipt of any such notice by the Corporation shall not be a bar to the approval by the Corporation, under this chapter, of a standard plan of such *bustee*.

(2) From the date of such notice no application shall be entertained for erecting on such land any new building which is a hut or adding to any hut standing thereon.

(3) Such owner shall, within six months after the date of such notice, or within such further time as the Corporation may from time to time allow, remove all huts standing on such land; and, if he does not do so, the notice shall be deemed to be cancelled.

(4) When all such huts have been so removed, such land shall, according to its situation, either—

(i) be altogether excluded from the limits of the *bustee*, or

(ii) be shown in a standard plan approved for the *bustee* under this chapter, as not being a part of such *bustee* :

Provided that, if in the standard plan any street or passage is shown on such land, the provisions of sections 343, 346, 350, 354, 356 and 357 shall, with all necessary modifications, be deemed to apply to such street or passage unless the Corporation otherwise direct.

(5) If, after all the huts standing on any land have been removed under sub-section (3), any application is received for erecting any hut on such land, the Corporation may, by written notice, require the owner of the land to carry out such improvements included in the standard plan as they may think fit.

(6) When all the huts standing on any land within a *bustee* have been removed under sub-section (3), the Corporation may either—

(a) cancel the standard plan (if any) already approved, under this chapter, for such *bustee*, or

(b) modify such plan, after hearing the objections (if any) of any owner of land included in such *bustee*.

(7) Where any land, formerly included in a *bustee*, ceases to be so included, and where any street or passage was shown on such land in the standard plan and where on such land ceasing to be so included the Corporation do not consider it to be practicable or do not consider

(Part V—Chapter XXII—Bustees.—Secs. 360, 361.)

it to be expedient to change the alignment of such street, they shall, in applying the proviso to sub-section (4) to such street, compensate the owner of such land for any area that is included in such street which is in excess of one-seventh of the entire area of land which ceases to be included in the *bustee*.

*Bustee streets.*

(1) In any *bustee*, in respect of which a standard plan has not been prepared, or in any area in which it appears to the Corporation that huts are likely to be erected, the Corporation may, after hearing the objections, if any, of any owner of land in such *bustee*, prescribe alignments, not more than sixteen feet in width, for such private streets as they may think fit.

Power to Corporation to prescribe alignments for *bustee* streets.

(2) When the land within such *bustee* or area is owned by more owners than one, each owning one or more separate plots of such land, such alignments shall, as far as practicable, be so prescribed as not to occupy, within any such plot, more than one-fifth of the area thereof and shall not ordinarily be less than two hundred and fifty feet apart.

(3) If, in any such plot, more than one-fifth of the area thereof is occupied by such alignments, the Corporation shall pay reasonable compensation to the owner of the plot:

Provided that no such compensation shall be paid in respect of any such plot as long as any hut or other structure other than a masonry building is left standing within any such alignment in the plot.

(4) No hut or portion of a hut shall be erected within any alignment prescribed under sub-section (1).

(5) The provisions of section 354 shall, with all necessary modifications, be deemed to apply to every street the alignment for which has been prescribed under this section.

**361.** (1) In any *bustee*, at any time after the expiration of seven years from the time when any alignment has been prescribed—

Power to Corporation to require removal of existing huts within street or hut alignment in *bustees*.

- (a) for a street under section 360, or
- (b) for huts under rule 66 of Schedule XVII,

the Corporation may, by written notice, require the owner of the land or the owners or occupiers of existing huts to remove such huts or portions thereof as fall—

- (i) within any such prescribed street alignment, or

(Part V.—Chapter XXII.—Bustees.—Chapter XXIII.  
—Demolition, alteration and stopping of unlawful  
work.—Secs. 362, 363.)

(ii) within six feet on either side of any such prescribed hut alignment,

as the case may be.

(2) When a hut has been removed under the provisions of sub-section (1), the Corporation shall pay to the owner thereof such compensation as they may consider to be reasonable, but such compensation shall in no case exceed the value of the hut less the value of the materials thereof.

Power to Corporation to require space to be kept between masonry building in bustee and centre line of bustee street.

362. Any person who erects a masonry building—

- (a) in any bustee in respect of which a standard plan has been approved under sections 338, 339 or 345, or
- (b) in any bustee or area in respect of which alignments for streets have been prescribed under section 360,

shall, if so required by written notice issued by the Corporation, leave a clear space of fifteen feet between the centre line of any street or passage shown in such plan, or of any street the alignment for which has been so prescribed, as the case may be, and the nearest part of such building.

CHAPTER XXIII.

DEMOLITION, ALTERATION AND STOPPING OF UNLAWFUL WORK.

Demolition or alteration of building work unlawfully commenced, carried on or completed.

363. (1) If the Corporation are satisfied—

(1) that the erection of any new building—

- (a) has been commenced without obtaining the written permission of the Corporation, or
- (b) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission was based, or
- (c) is being carried on or has been completed in breach of any provision contained in this

*(Part V.—Chapter XXIII.—Demolition, alteration and stopping of unlawful work.—Sec. 363.)*

Act or in any rules or by-laws made thereunder, or of any direction or requisition lawfully given or made under this Act or under such rules or by-laws, or

- (2) that any alteration of, or addition to, any building or any other work made or done for any purpose in, to or upon any building, has been commenced or is being carried on or has been completed in breach of, or otherwise than in accordance with, any sanction granted under sections 330, 340 or 341, or
- (3) that any alterations required by any notice issued under rule 22 of Schedule XVII have not been duly made,

they may, after giving the owner of such building an opportunity of being heard, apply to a Magistrate, and such Magistrate may make an order directing that such erection, alteration, addition or other work, as the case may be, or so much thereof as has been executed unlawfully as mentioned in clauses (1), (2) or (3),

or that any structure, specified under the *Explanation* to clause (d) of rule 53, or the *Explanation* to clause (iv) of rule 81, of Schedule XVII as a structure to be demolished or altered, shall—

- (i) be demolished by the owner thereof or altered by him in accordance with the order of the Magistrate to the satisfaction of the Corporation, as the case may require, or
- (ii) be demolished or altered by the Corporation at the expense of the said owner:

Provided that the Magistrate—

- (a) shall not make any order under this section without giving the owner and occupier of the building to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence, and
- (b) may make any such order notwithstanding the fact that a valuation of such building has been made by the Executive Officer under Chapter X for the assessment of the consolidated rate:

Provided that where the Corporation have instituted proceedings under section 493, no application shall be made under this section.

(Part V.—Chapter XXIII.—Demolition, alteration and stopping of unlawful work.—Sec. 364.)

(2) Notwithstanding anything contained in sub-section (1), no proceedings shall be instituted thereunder in respect of any work which has been done more than five years before the institution of such proceedings:

Provided that the onus of proving that the work was done more than five years previously shall lie on the owner.

Demolition or alteration of work in other cases.

**364.** (1) In any of the following cases, namely,—

- (1) if, within the period prescribed in any notice issued under section 299, sub-section (1), requiring the removal or alteration of a verandah, platform or other similar structure or a fixture, the same be not duly removed or altered, or
- (2) if the owner of any building erected or added to between a street alignment and the building-line fails to remove such building or addition when called upon by the Corporation to do so under section 303, sub-section (3), or
- (3) if any person who makes any additions to a building in pursuance of an agreement executed under the proviso to sub-section (1) of section 303, fails to remove such additions when called upon by the Corporation to do so, or
- (4) if the owner of any building erected or added to under the provisions of section 309 fails to remove such building or addition when called upon to do so, or
- (5) if the owner of any building, which is unfit for human habitation, fails to demolish such building when required to do so under section 382, sub-section (2), or
- (6) if any privy or urinal be placed in contravention of rule 21 or rule 22, sub-rule (1), of Schedule XV, or
- (7) if, within the period prescribed in any notice issued under rule 2, sub-rule (5), of Schedule XVI, requiring the owner or occupier of a building to comply with any condition on which the erection of any verandah or other projection was permitted, such condition is not complied with, or

**(Part V.—Chapter XXIII.—Demolition, alteration and stopping of unlawful work.—Sec. 364. )**

- (8) if, within the period prescribed in any notice issued under rule 2, sub-rule (6), of Schedule XVI, requiring the owner or occupier of a building to remove a verandah or other projection, the same be not duly removed, or
- (9) if, within the period prescribed in any notice issued under rule 7, sub-rule (2), of Schedule XVII, requiring the owner of a building to remove or alter an external roof or wall made of inflammable material, the same be not duly removed or altered, or
- (10) if any owners or occupiers neglect to execute any works or to take any measures required by any notice affixed under rule 6, sub-rule (1), of Schedule XVIII,

the Corporation may apply to a Magistrate, and such Magistrate may make an order directing that the projection, building, block of buildings, verandah, platform, fixture, additions, roof, wall, privy or urinal, as the case may be, shall—

- (a) be demolished by the owner thereof or altered by him to the satisfaction of the Corporation, or
- (b) be demolished or altered by the Corporation at the expense of such owner :

Provided that, before making such application, the Corporation shall give the owner or occupier an opportunity of being heard on his behalf :

Provided also that the Magistrate—

- (i) shall not make any order under this section without giving the owner and occupier of the structure to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence, and
- (ii) may make any such order notwithstanding the fact that a valuation of such building has been made by the Executive Officer under Chapter X for the assessment of the consolidated rate :

Provided also that where the Corporation have instituted proceedings under section 493, no application shall be made under this section.

(2) The provisions of sub-section (2) of section 363 shall apply, *mutatis mutandis*, to the institution of proceedings under this section.



[Sec. 365]

(Part V.—Chapter XXIII.—Demolition, alteration and stopping of unlawful work.—Chapter XXIV.—Lighting and scavenging, and regulation of public bathing and washing.—Secs. 365, 366.)

Power to Corporation to stop progress of building work unlawfully commenced or carried on.

**365.** (1) In any case in which the erection of a new building, or any other work referred to in section 363, has been commenced, or is being carried on unlawfully as mentioned in that section, the Corporation may, by written notice, require the person carrying on such erection or other unlawful work to stop the same, pending the decision of a Magistrate on an application to be made to him under that section.

(2) If any notice issued under sub-section (1) is not duly complied with, the Corporation may, with the assistance of the police, if necessary, take such steps as they may deem needful in order to stop the continuance of the unlawful work.

(3) If it appears to the Corporation that it is necessary, in order to prevent the continuation of the unlawful work, to depute any police or municipal officer to watch the premises, they may require the person to whom the said notice was addressed to bear the cost of providing the same.

(4) Pending the decision of the Magistrate in accordance with sub-section (1), the Corporation may hear the person concerned and thereupon determine whether their order for stopping the work shall remain in force or shall be suspended until the Magistrate makes his decision.

## CHAPTER XXIV.

### LIGHTING AND SCAVENGING, AND REGULATION OF PUBLIC BATHING AND WASHING.

#### *Lighting.*

Provision for lighting of public streets, squares, markets and buildings

**366.** (1) The Corporation shall—

- (a) take measures for lighting, in a suitable manner, the public streets, squares and gardens and municipal markets and all buildings vested in the Corporation;
- (b) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for such lighting; and
- (c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation may from time to time determine.

*(Part V.—Chapter XXIV.—Lighting and scavenging, and regulation of public bathing and washing.—secs. 367, 368..)*

(2) The Corporation may place and maintain—

- (i) electric wires or gas-pipes for the purpose of lighting such lamps under, over, along or across any immovable property, and
- (ii) posts, poles, standards, stays, struts, brackets, tunnels, culverts or any other suitable contrivance for carrying, suspending or supporting such lamps, gas-pipes or electric wires in or upon any immovable property:

Provided that such pipes, wires, posts, poles, standards, stays, struts, brackets, tunnels, culverts or other contrivance shall be so placed as to occasion as little damage, detriment, inconvenience or nuisance to any person as the circumstances permit.

IX of 1910 (3) Notwithstanding anything contained in the Indian Electricity Act, 1910, the Corporation shall not be liable, except on the ground of negligence, to any claim for compensation for any damage, detriment, inconvenience or nuisance caused by them, or by anyone employed by them, in the exercise of any of the powers conferred by sub-section (2).

**367.** The Corporation, on the application of the owners of a private street, may enter into arrangements for the lighting of such street on such terms as may be agreed upon between them and such owners, and shall thereafter in respect of such street have all the powers conferred by section 366.

Provision for lighting of private street by Corporation on application of owner.

(1) Without the written permission of the Corporation—

- (a) no private street shall be constructed, and
- (b) no building, wall or other structure shall be newly erected,

Streets, etc., not to be constructed over municipal gas-pipe without permission.

over any gas-pipe belonging to the Corporation.

(2) If any private street be so constructed, or if any building, wall or structure be so erected, the Corporation may cause the same to be removed or otherwise dealt with as they may think fit,

and the expenses incurred by the Corporation in so doing shall, in the discretion of the Corporation, be paid by the owner thereof or by the person offending.

*(Part V.—Chapter XXIV.—Lighting and scavenging,  
and regulation of public bathing and washing.—  
Secs. 369-371.)*

*Keeping of animals.*

Prohibition as  
to keeping  
animals.

**369.** No person shall—

- (a) without the written permission of the Corporation, or otherwise than in conformity with the terms of such permission, keep any swine in any part of Calcutta;
- (b) keep any animal on his premises so as to be a nuisance or dangerous; or
- (c) feed any animal, or suffer or permit any animal to be fed or to feed, with or upon sewage or offensive matter.

Destruction of  
stray swine.

**370.** Any swine found straying may be forthwith destroyed, and the carcasses thereof disposed of, as the Executive Officer may direct; and no claim shall lie for compensation for any swine so destroyed.

*Scavenging.*

Provision or  
appointment of  
receptacles,  
depots and places  
for depositor  
disposal of  
rubbish, offensive  
matter, sewage  
and

**371.** (1) The Corporation shall provide or appoint, in proper and convenient situations, public receptacles, depots and places for the temporary deposit or final disposal of rubbish, offensive matter, sewage and the carcasses of dead animals accumulating in Calcutta:

Provided as follows:—

- (i) the said things shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of without the sanction of the Corporation, or in any place or manner which the <sup>1</sup>[Provincial Government] may disallow;
- (ii) the powers conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

(2) Any land that may be required in a *bustee* for the temporary deposit of rubbish, offensive matter, sewage or carcasses taken from land or buildings in such *bustee* shall be provided by the owner of the *bustee*.

(3) All things deposited in receptacles, depots or places provided or appointed under this section shall be the property of the Corporation.

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<sup>1</sup>See foot-note 2 on p. 241, ante.

of 1923.]

*(Part V.—Chapter XXIV.—Lighting and scavenging,  
and regulation of public bathing and washing.—  
Secs. 372, 373.)*

**372.** (1) The Corporation may, by public notice, direct that all rubbish and offensive matter accumulating in any premises in any street or quarter of Calcutta specified in the notice shall be collected by the occupier of such premises and deposited in a box, basket or other receptacle, of a kind prescribed by the Corporation, to be provided by such occupier and kept near the entrance to, or, where open space is available, within, the premises.

Collection and temporary deposit of rubbish and offensive matter by occupiers of premises.

(2) The Corporation may cause public dust-bins or other convenient receptacles to be provided at suitable intervals and in proper and convenient situations in streets or quarters in respect of which no notice issued under sub-section (1) is for the time being in force,

and may, by public notice, direct that all rubbish and offensive matter accumulating in any premises, the entrance to which is situated within fifty yards of any such receptacle, shall be collected by the occupier of such premises and deposited in such receptacle.

(3) The Corporation may, by public notice, direct that all rubbish and offensive matter accumulating in any premises in any street or quarter in respect of which no notice issued under sub-section (1) or sub-section (2) is for the time being in force shall be collected by the occupier of such premises and deposited in lump in the street on which such premises abut or in some portion of such premises.

(4) In any notice issued under any of the foregoing sub-sections the Corporation shall prescribe the hours within which rubbish and offensive matter shall be deposited under this section.

**373.** Notwithstanding anything contained in section 372, when building operations are being carried on in any premises, or when any premises are used for carrying on any manufacture, trade or business, the Corporation may,—

Collection and removal of rubbish and offensive matter accumulating in the course of business or building operations.

(a) by written notice, direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises in the course of such operations, manufacture, trade or business and to remove the same, at such times, in such carts or receptacles, and by such routes as may be specified in the notice, to a public receptacle, depot or place provided or appointed under section 371; or

*Part V.—Chapter XXIV.—Lighting and scavenging,  
and regulation of public bathing and washing.—  
Secs. 374-377.)*

- (b) after giving such occupier written notice of their intention to do so, themselves cause all the rubbish and offensive matter to be removed, and charge the occupier for such removal such periodical fee as may be specified in the notice:

Provided that the requisition under clause (a) shall not be enforced by the Corporation, nor shall action be taken by them under clause (b), until the occupier of the premises has been given an opportunity of being heard within such time as may be specified in the written notice that is served on him.

Establishment  
for removal of  
sewage, etc.,  
and the  
scavenging  
of streets.

**374.** The Corporation shall maintain an establishment for the removal of sewage from privies and urinals which are not connected with a sewer, and of offensive matter and rubbish from receptacles, depots and places provided or appointed under section 371, or under any by-law made under this Act, and for the daily cleansing and scavenging of streets and premises.

Presumption as  
to offender.

**375.** If in any case it is proved that rubbish, offensive matter or sewage has been deposited in any place in contravention of any by-law made under this Act, from some land or building, it shall be presumed, unless and until the contrary is proved, that the offence has been committed by the occupier of the said land or building.

Notice to be  
given by  
mehters, etc.,  
before  
withdrawing  
from work.

**376.** No *mehter* or other servant of the Corporation, who is employed to remove or otherwise deal with sewage, offensive matter or rubbish, shall, without the permission of the Corporation, withdraw from his duties without giving written notice, not less than one month previously, of his intention so to withdraw.

*Public bathing and washing.*

Construction of  
apaces for public  
bathing, etc.

**377.** The Corporation may from time to time—

- (a) construct suitable places for use by the public as swimming baths or for bathing, or for washing animals, or for washing or drying clothes, and
- (b) prohibit, by public notice, the use by the public, for any of the said purposes, of any place not so constructed.

of 1923.

(Part V.—Chapter XXV.—Municipal railways.—  
Secs. 378, 379.)

## CHAPTER XXV.

### MUNICIPAL RAILWAYS.

**378.** With the previous sanction of the '[Federal Railway Authority and the Provincial Government], the Corporation may—

Power to Corporation to construct, lease and otherwise deal with railways.

- (a) upon any of the public streets in Calcutta, or upon any land within or without Calcutta which is vested in the Corporation, construct or maintain any railway which may appear to them to be useful or necessary for the removal of rubbish and offensive matter or for any of the other purposes of this Act,
- (b) use and employ upon any such railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby,
- (c) carry and convey passengers and goods upon any such railway,
- (d) make such reasonable charges in respect of such passengers or goods as the Corporation may from time to time determine,
- (e) from time to time enter into any contract with any person for the construction, maintenance and working of any such railway within or without Calcutta,
- (f) from time to time enter into any contract with any person for the passage over any such railway of locomotive engines or other motive power, carriages and wagons belonging to or controlled by such person, upon the payment of such tolls or rent, and under such conditions and restrictions, as may be mutually agreed upon, and
- (g) lease any such railway to any person, upon such terms and under such conditions and restrictions as may be mutually agreed upon.

**379.** Any person to whom a railway is leased under clause (g) of section 378 shall, subject to the terms, conditions and restrictions of his lease, have the same powers for—

Certain powers to lessee of Corporation's railway.

- (i) maintaining the railway,

<sup>1</sup>These words were substituted for the words "Governor General in Council" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part V.—Chapter XXVI.—*Inspection and regulation of premises, and of factories, trades and places of public resort.*—Secs. 380, 381.)

- (ii) using and employing thereupon locomotive engines or other motive power and carriages and wagons to be drawn or propelled thereby, and
- (iii) carrying and conveying thereupon passengers and goods and making charges in respect thereof,

as the Corporation would have had if the railway had not been so leased.

## CHAPTER XXVI.

### INSPECTION AND REGULATION OF PREMISES, AND OF FACTORIES, TRADES AND PLACES OF PUBLIC RESORT.

#### *Premises generally.*

Inspection and regulation of premises.

**380.** Subject to the provisions of this Act, land and buildings shall respectively be inspected, cleansed, secured, repaired, drained, or otherwise regulated in accordance with the rules contained in Schedule XVIII.

Procedure in cases of buildings deemed unfit for human habitation.

**381.** (1) If, for any reason, any building or portion of a building intended for, or used as, a dwelling-place appears to the Corporation to be unfit for human habitation, they may require the owner or occupier of such building to make such alterations as they think necessary in the building in order to make it fit for human habitation, if they consider that this can be done; but whether they think it can be made fit for human habitation or not, they may, in either case, after giving the owner or occupier an opportunity of being heard, apply to a Magistrate to prohibit the further use of such building or portion thereof for such purpose;

and the Magistrate shall serve a notice on such owner or occupier so as to give him an opportunity of being heard in the Court, and, after such inquiry as he thinks fit to make, may, by written order, prohibit the further use thereof, or may pass such other order as he may deem just and proper.

*(Part V.—Chapter XXVI.—Inspection and regulation of premises, and of factories, trades and places of public resort.—Sec. 382.)*

(2) When any such prohibition has been made, the Corporation may—

- (i) inspect such building by day or by night, and
- (ii) take such order as may be necessary to preclude the further use of the same, or of the portion specified in the prohibition, as a human habitation.

(3) When any such prohibition has been made, no owner or occupier of such building shall use, or suffer the same, or the portion specified in the prohibition, to be used for human habitation until—

- (a) the Executive Officer certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or
- (b) a Magistrate, by written order, withdraws the prohibition.

(4) The Corporation shall prepare and maintain at the Municipal office a list of buildings in respect of which the Magistrate has passed an order under subsection (1), and such list shall contain such particulars as to the action taken by the Corporation or the owner in pursuance of such order or otherwise, as the Executive Officer shall think fit and shall be open to inspection by the public free of charge.

**382.** (1) When a Magistrate has prohibited the use of a building for human habitation under section 381 and such prohibition has been in force for three months, the Corporation shall take into consideration the question of the demolition of such building,

and shall give notice of the time (being some time not less than one month after the service of the notice) and place at which such question will be considered to the owner and to the occupier (if any) of the building, and the said owner and occupier shall be entitled to be heard when the question is so taken into consideration.

(2) If, upon such consideration, the Corporation are of opinion that building has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit,

Power to Corporation to require demolition of, or execution of work on, building unfit for human habitation.



*(Part V.—Chapter XXVI.—Inspection and regulation of premises, and of factories, trades and places of public resort.—Sec. 383.)*

they shall cause a written notice to be served on the said owner and occupier and also to be put on some conspicuous part of such building, requiring such owner and occupier to demolish the building or any portion thereof, as the case may be, or to execute such work as in the opinion of the Corporation may be necessary to render the building fit for human habitation.

(3) If such owner or occupier undertakes to execute with due diligence the work necessary to render the building fit for human habitation, and the Corporation consider that it can be so rendered fit for human habitation,

the Corporation may postpone the operation of the said notice for such time as they think sufficient for the purpose of giving the said owner or occupier an opportunity of executing the necessary work.

Power to  
Corporation  
to call for  
statement of  
accommodation.

**383.** (1) The owner of any building shall, within a period of a fortnight after receipt of a written notice from the Corporation requiring him to do so, submit to the Corporation a signed statement of the following particulars with respect to such building or any part thereof, namely,—

- (a) the total number of rooms in the building,
- (b) the length, breadth and height of each room, and
- (c) the name of the person to whom he has let the building or each part of the building occupied as a separate tenement, with the particulars specified in clauses (a) and (b) in regard to each such part.

(2) The occupier of any building or of any part of any building occupied as a separate tenement shall, on like notice and within the like period, submit a signed statement of the following particulars with respect to the building or part thereof, as the case may be, which is in his occupation, namely,—

- (i) the total number of persons dwelling in such building or part, and
- (ii) the total number of adults and the total number of children occupying each room used for sleeping.

*(Part V.—Chapter XXVI.—Inspection and regulation of premises, and of factories, trades and places of public resort.—Secs. 384, 385.)*

--- (1) If it comes to the knowledge of the Corporation from a statement received under section 383, or after an inspection made under rule 1 of Schedule XVIII, or in any other way, that a dwelling-house, or a public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, they may require the owner to abate such overcrowding in the manner specified in such requisition. After giving the owner an opportunity of being heard in regard to such requisition, the Corporation may direct him within such time as they may fix to take such measures as they think fit to abate such overcrowding. If the owner fails to take such measures, the Corporation may apply to the Magistrate to abate such overcrowding.

Abatement of overcrowding in dwelling-houses or dwelling-places.

The Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building or room, within such time as the Magistrate may prescribe in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

Every such order shall be binding and operative on the owner as well as on the occupier, and every occupier shall, on the written requisition of the Corporation informing him of the order, be bound to vacate the same within such time as may be specified in such requisition.

(2) If the owner of any building or room referred to in sub-section (1) has sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

*Factories, trades and places of public resort.*

**385.** (1) No person shall, without the previous written permission of the Corporation, newly establish in any premises, or materially alter, enlarge or extend, any factory, workshop or workplace in which it is intended to employ steam, electricity, water or other mechanical power.

Factory, etc., not to be newly established, etc., without permission of the Corporation.

(2) The Corporation may refuse to give such permission, if they are of opinion that the establishment, alteration, enlargement or extension of such factory, workshop or workplace in the proposed position would

(Part V.—Chapter XXVI.—*Inspection and regulation of premises, and of factories, trades and places of public resort.*—Secs. 386, 387.)

be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance to the inhabitants of the neighbourhood.

Premises not to be used for certain purposes without a license.

**386.** (1) No person shall use or permit to be used any premises for any of the following purposes without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf, namely,—

- (a) any of the purposes specified in Schedule XIX;
- (b) any purpose which is, in the opinion of the Corporation, dangerous to life, health or property, or likely to create a nuisance;
- (c) keeping horses, cattle or other four-footed animals for sale or hire or for sale of the produce thereof; or
- (d) storing for other than his own domestic use or selling timber, firewood, charcoal, coal, coke, ashes, hay, grass, straw or any other combustible thing:

Provided that the Corporation may declare that premises in which the aggregate quantity of combustible articles stored for sale does not exceed such quantity as the Corporation may prescribe in respect of any such article shall be exempted from the operation of clause (d).

(2) In prescribing the terms of a license granted under this section for the use of premises as mills or iron yards or for similar purposes, the Corporation may, when they think it practicable, require the licensee to provide a space or passage within the curtilage of the premises for carts for loading and unloading purposes.

(3) The Corporation shall fix a scale of fees to be paid in respect of premises licensed under sub-section (1):

Provided that no such fee shall exceed five hundred rupees. ✓

Power to Corporation to prevent use of premises in

for purposes referred to in section 386.

**387.** (1) The Corporation may give public notice of their intention to declare that in any area specified in the notice no person shall use any premises for any of the purposes referred to in section 386, sub-section (1), which may be specified in such notice.

(2) No objections to any such declaration shall be received after a period of one month from the publication of such notice.

of 1923.]

(Part V.—Chapter XXVI.—Inspection and regulation of premises, and of factories, trades and places of public resort.—Secs. 388, 389.)

(3) The Corporation shall consider all objections received within the said period, giving any person affected by the said notice an opportunity of being heard by them during such consideration, and may thereupon make a declaration in accordance with the notice published under sub-section (1), with such modifications (if any) as they may think fit, but not so as to extend its application.

(4) Every such declaration shall be published in the <sup>1</sup>[*Official Gazette*], and in such other manner as the Corporation may determine, and shall take effect from the date of such publication in the <sup>1</sup>[*Official Gazette*].

(5) No person shall in any area specified in any such declaration use any premises for any of the said purposes.

**388.** Whenever a Magistrate imposes a fine on any person under section 488 for using or permitting the use of any premises for any purpose in contravention of section 386, sub-section (1), he may, if it is proved to his satisfaction that such premises are kept in such a state as to be a nuisance, also direct that they shall no longer be used for the said purpose.

Discontinuance of use of premises for particular purpose, when kept so as to be a nuisance.

(1) No person engaged in any trade or manufacture specified in Schedule XIX shall—

Prohibition of fouling of water in carrying on trade or manufacture.

(a) wilfully cause or suffer to flow or be brought into any tank, reservoir, cistern, well, duct or other place for the storage or accumulation of water belonging to the Corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of such trade or manufacture; or

(b) wilfully do any act connected with any such trade or manufacture whereby the water in any such tank, reservoir, cistern, well, duct or other place is fouled or corrupted.

(2) the Corporation may, after giving not less than twenty-four hours' previous notice in writing to the

<sup>1</sup>These words were substituted for the words "*Calcutta Gazette*" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part V.—Chapter XXVI.—*Inspection and regulation of premises, and of factories, trades and places of public resort.*—Sec. 390, 391.)

owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade, lay open and examine the said works, pipes or conduits.

(3) If, upon such examination, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination, and of any measure which the Corporation, in their discretion, may require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits, or by the person who has the management or control thereof, or through whose neglect or fault the said sub-section has been contravened.

(4) If, upon such examination, it appears that there has been no contravention of sub-section (1), the said expenses and compensation for any damage occasioned by the said laying open and examination, shall be paid by the Corporation.

Eating-houses,  
etc., not to be  
used without  
license from  
Corporation.

**390.** (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf, keep any eating-house, tea-shop, hotel, boarding-house, bakery, aerated water factory, ice factory or other place where food is sold or prepared for sale:

Provided that the fee payable for any such license shall in no case exceed one rupee.

(2) The Corporation may at any time cancel or suspend any such license if they are of opinion that the premises covered thereby are not kept in conformity with the conditions of such license or the provisions of any by-law made under section 478, relating to such premises, whether the licensee is prosecuted under this Act or not.

Licensing and  
control of  
theatres,  
circuses and  
places of public  
amusement.

**391.** No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf, keep open any theatre, circus or other similar place of public resort, recreation or amusement:

Provided that this section shall not apply to private performances in any such place.

*The Calcutta Municipal Act, 1923.*

of 1923.]

*(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Secs. 392-394.)*

CHAPTER XXVII.

MARKETS, BAZARS AND SLAUGHTER-PLACES.

**392.** (1) The Corporation may—

- (a) construct, purchase or take on lease any land or building for the purpose of establishing a new municipal market or a new municipal slaughter-house or municipal stock-yard, or of extending or improving any existing municipal market, municipal slaughter-house or municipal stock-yard, and

Power to Corporation to provide and maintain municipal markets, slaughter-houses and stock-yards.

- (b) from time to time build and maintain such municipal markets, municipal slaughter-houses and municipal stock-yards and such stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in, or frequenting, such markets, slaughter-houses or stock-yards, and provide and maintain in such municipal markets such buildings, places, machines, and correct weights, scales and measures for weighing and measuring goods sold therein, as they may think fit.

(2) Municipal slaughter-houses and municipal stock-yards may be situated in or, with the sanction of the<sup>1</sup>[Provincial Government]; without Calcutta.

The Corporation may at any time close any municipal market, municipal slaughter-house or municipal stock-yard or any portion thereof; and the premises occupied for any market, slaughter-house or stock-yard or portion so closed may be disposed of as the property of the Corporation.

Power to Corporation to close municipal markets, slaughter and stock-yards.

**394.** (1) No person shall, without a license from the Corporation, sell or expose for sale any animal or article in any municipal market:

Power to Corporation to license vendors in municipal markets.

Provided that no fee shall be charged for such license.

(2) Any person contravening sub-section (1) may be summarily removed from such market by any municipal officer or servant.

<sup>1</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

*The Calcutta Municipal Act, 1923.*

[*Ben. Act III*

*(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Secs. 395, 396.)*

Power to  
Corporation to  
permit opening  
of new private  
markets.

(1) The Corporation shall from time to time determine whether the establishment of new private markets shall be permitted in Calcutta or in any specified portion thereof.

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any other article of human food, except with the sanction of the Corporation.

(3) When the establishment of a new private market has been so sanctioned, the Corporation shall cause a notice of such sanction to be affixed in the English, Bengali, Hindi and Urdu languages on some conspicuous spot on or near the building or place where such market is to be held.

Power to  
Corporation  
to license  
private markets,  
slaughter-houses  
and stock-yards.

**396.** (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf,—

- (a) keep open any private market, or wilfully or negligently permit any place to be used as a private market;
- (b) use any place in Calcutta as a slaughter-house or stock-yard, or for the slaughtering of any animal intended for human food; or
- (c) use any place without Calcutta, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in Calcutta:

Provided as follows:—

- (i) the Corporation shall not refuse, suspend or cancel any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some by-law made under section 478, at the time in force;
- (ii) nothing in the foregoing provisions of this section shall be deemed to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony;
- (iii) nothing in the foregoing provisions of this section shall be deemed to prevent the Corporation from setting apart places for the sacrifice of animals in accordance with religious custom, and for the sale of the flesh thereof,

of 1923.]

(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Secs. 397-399.)

(2) Every such license shall be renewable triennially on the certificate of the Health Officer.

(3) There shall be paid for every license granted under sub-section (1) and in respect of every place set apart under proviso (iii) to that sub-section such annual fee as may be prescribed by the Corporation.

(4) If any private market or any place set apart under proviso (iii) to sub-section (1) be closed for more than half of any year for which a fee has been paid, the Corporation may refund the whole or any portion of the fee so paid for that year.

(5) When the Corporation have refused, suspended or cancelled any license to keep open a private market, they shall cause a notice of their having done so to be affixed in the English, Bengali, Hindi and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

**397.** Whenever a Magistrate imposes a fine on any person under section 488 for keeping open a private market or permitting any place to be used as a private market in contravention of section 396, sub-section (1), he shall, on the application of the Corporation, but not otherwise, also direct that such market be closed and appoint persons, or take other steps, to prevent the place being used as a market.

Power to Magistrate to close unauthorized private market.

**398.** No person shall use as a market any place in respect of which a direction has been given by a Magistrate under section 397.

Prohibition of use of market so closed.

The Corporation may, by written notice, require the owner or occupier of any private market, bazar, private slaughter-house or place set apart under proviso (iii) to sub-section (1) of section 396—

Power to Corporation to require paving and draining of private markets, etc., and to alter structures in such markets.

(a) to cause the whole or any portion of the floor of the market-building, market-place, bazar, slaughter-house or place set apart as aforesaid to be raised or paved with dressed stone or other suitable material,

(b) to cause such drains to be made in or from the market-building, market-place, bazar, slaughter-house or place set apart as aforesaid, of such material, size and description,



*(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Sec. 440.)*

at such level, and with such outfall as to the Corporation may appear necessary, and

- (c) to cause any shop, stall, shed or other structure in any such private market to be altered or improved in such manner as the Corporation may consider necessary.

Power to Corporation to define limits of market, and to require provision and maintenance of market approaches, etc.

**400.** (1) The Corporation may—

- (a) define or determine the limits of any private market or *bazar*, or declare what portions of such market or *bazar* shall be made part of the existing approaches, roads, passages and ways to and in such market or *bazar*, and,
- (b) after hearing the owner or occupier of such market or *bazar*, by written notice, require such owner or occupier to—
- (i) lay out, construct, alter, clear, widen, pave, drain and light, to the satisfaction of the Corporation, such approaches, roads, passages and ways to and in such market or *bazar*,
- (ii) provide such conveniences for the use of persons resorting to such market or *bazar*, as the Corporation may think fit, and
- (iii) provide adequate ventilation and lighting of the market building or any portion thereof, including shops and stalls, to the satisfaction of the Corporation.

(2) The Corporation, after hearing the owner or occupier of any private market or *bazar* may, by written notice, require such owner or occupier to maintain in proper order the approaches, roads, passages and ways to and in such market or *bazar*, and such other conveniences as are provided for the use of persons resorting thereto.

(3) The Corporation shall cause a notice of the limits of any market or *bazar*, defined under subsection (1), to be affixed in the English, Bengali, Hindi and Urdu languages on some conspicuous spot on or near the building or place where such market or *bazar* is held.

of 1923.]

*(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Secs. 401-403.)*

**401.** The Corporation may—

(a) charge such stallages, rents and fees—

- (i) for the occupation or use of any stall, shop, standing, shed or pen in a municipal market, municipal slaughter-house or municipal stock-yard,
- (ii) for the right to expose goods for sale in a municipal market,
- (iii) for the use of machines, weights, scales and measures provided under clause (b) of sub-section (1) of section 392 for any municipal market, and
- (iv) for the right to slaughter animals in any municipal slaughter-house, and for the feed of such animals before they are ready for slaughter,

Power to Corporation to levy charges, farm rents, etc., in municipal markets, etc.

as may from time to time be fixed by them in this behalf; or,

(b) farm the stallages, rents and fees leviable as aforesaid, or any portion thereof, for such period as they may think fit; or

(c) put up to public auction, or dispose of by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market, municipal slaughter-house or municipal stock-yard, for such period and on such conditions as they may think fit.

**402.** (1) A printed copy of the by-laws made under section 478 and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under section 401, in the English, Bengali and Urdu languages, shall be affixed on some conspicuous spot in the market-building, market-place or slaughter-house.

By-laws and table of charges to be posted up in markets and slaughter-hou

(2) No person shall without lawful authority destroy, pull down, injure or deface any copy of any by-law or table so affixed.

**403.** (1) The Corporation, after giving the parties concerned an opportunity of being heard, may—

(a) expel from any municipal market, municipal slaughter-house or municipal stock-yard, for

Power to Corporation to expel person contravening by-laws.

(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Sec. 404.)

such period as they may think fit, any person who or whose servant has been convicted of contravening any by-law made under section 478, at the time in force in such market, slaughter-house or stock-yard,

- (b) prevent such person, by himself or his servants, from further carrying on any trade or business in such market, slaughter-house or stock-yard, or occupying any stall, shop, standing, shed, pen or other place therein, and
- (c) determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the tenant, or the agent of the tenant, of the owner or lessee of any private market or slaughter-house has been convicted for contravening any bye-law made under section 478 and specified by the Corporation in this behalf, the Corporation may require such tenant or agent to remove himself from such market or slaughter-house, within such time as may be mentioned in the requisition, and if he fails to comply with such requisition, he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises by the owner or lessee thereof or by the servants of such owner or lessee.

(3) If it appears to the Corporation that in any such case the owner or lessee is acting in collusion with a tenant or agent convicted as aforesaid who fails to comply with a requisition issued under sub-section (2), the Corporation may, if they think fit, cancel the license of such owner or lessee in respect of such premises.

**Depôts or shops for trading in food-stuffs, etc., in cases of emergency.**

**404.** Whenever an emergency arises which in the opinion of the Corporation makes it advisable to open depôts or shops for the purpose of trading in food-stuffs, fuel, cloth and other similar necessities of life, they may, with the previous sanction of the <sup>1</sup>[Provincial Government] and subject to such conditions and limitations as the <sup>1</sup>[Provincial Government] may prescribe, open such depôts or shops for any such purpose.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

of 1923.]

(Part V.—Chapter XXVIII.—*Food and drugs.*—  
Secs. 405, 406.)

## CHAPTER XXVIII.

### FOOD AND DRUGS.

#### *Sale of food and drugs.*

**405.** (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf,—

Licensing of butchers and of sale of meat, etc., outside market.

- (a) carry on in Calcutta, or at any municipal slaughter-house without Calcutta, the trade or business of a butcher; or
- (b) sell or expose or hawk about for sale any four-footed animal, or any meat or fish intended for human consumption, in any place other than a municipal market or a private market.

(2) Nothing in clause (b) of sub-section (1) shall apply—

- (a) to the sale of meat or fish in any hotel or eating-house for consumption on the premises, or
- (b) to fresh fish sold from, or exposed for sale on, a vessel in which it has been brought direct to Calcutta after being caught at sea or in the river or in private fisheries.

**406.** (1) No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, any food or drug which is adulterated or misbranded:

Prohibition of sale, etc., of adulterated or misbranded food or drugs.

Provided that an offence shall not be deemed to be committed under this section in the following cases, namely,—

- (a) where any matter or ingredient not injurious to health has been added to any article of food or to any drug because the same is required for the production or preparation thereof, as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the article or to conceal the inferior quality thereof; or
- (b) where any article of food or any drug is unavoidably mixed with some extraneous matter in the process of collection or preparation; or

*The Calcutta Municipal Act, 1923.*

[Ben. Act 175.]

*(Part V.—Chapter XXVIII.—Food and drugs.—  
Sec. 407.)*

(c) where a patent has been granted under any law for the time being in force in respect of any article of food, and the article is sold in the state required by the specification of the patent.

(2) In any prosecution under this section it shall be no defence to allege that the vendor, manufacturer or storer was ignorant of the nature, substance or quality of the article sold, exposed, hawked about for sale, or manufactured or stored for sale, by him.

(3) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any article of food or any drug found in the possession of a person who is in the habit of manufacturing or storing like articles has been manufactured or stored for sale by such person.

Prohibition of sale, etc., of certain articles which are not of the prescribed standard of purity.

**407.** (1) No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, any of the following articles, namely,—

- (a) milk <sup>1</sup>\* \* \* ,
- (b) butter,
- (c) ghee,
- (d) wheat flour,
- (e) mustard oil,
- (f) tea,
- (g) edible oil or <sup>2</sup>[edible fat], and
- (h) any other article of food or any drug which may be notified by the <sup>3</sup>[Provincial Government] in that behalf,

unless the following conditions are fulfilled, namely,—

- (i) in the case of milk (other than condensed, <sup>4</sup>[sterilized] or desiccated milk in hermetically-closed receptacles)—

the animal from which the milk is derived shall be distinctly stated in such

<sup>1</sup>The brackets and words “(other than condensed or desiccated milk in hermetically closed receptacles)” were omitted by s. 5(1) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

<sup>2</sup>These words were substituted for the word “fat” by s. 3(1) of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).

<sup>3</sup>See foot-note 1 on p. 331, ante.

<sup>4</sup>This word was inserted by s. 5(2) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

(Part V.—Chapter XXVIII.—Food and drugs.—  
Sec. 407.)

manner as the Corporation may, by general or special order, require, and the article sold, exposed or hawked about for sale, or stored for sale, as the case may be, shall be the natural secretion from the udder of such animal, from which no ingredient has been extracted and to which no water or other substance (including any preservative) has been added, and shall not contain a less proportion of non-fatty solids and of fat than such as the<sup>1</sup>[Provincial Government] may prescribe;

<sup>2</sup>(ia) in the case of condensed, sterilized or desiccated milk in hermetically closed receptacles—

each such receptacle shall be labelled and marked in such manner as the<sup>1</sup>[Provincial Government] may prescribe and the article sold, exposed or hawked about for sale, or stored for sale, as the case may be, shall not contain a less proportion of non-fatty solids and of milk fat than such as the<sup>1</sup>[Provincial Government] may prescribe;

(ii) in the case of butter—

it shall be exclusively derived from milk or cream (other than condensed<sup>3</sup>[sterilized] or desiccated milk, or cream), or both, with or without salt<sup>4</sup> \* \* \* and with or without the addition of colouring matter, such<sup>5</sup> \* \* \* colouring matter, being of such a nature and in such quantity as not to render the article injurious to health, and shall fulfil such conditions as may be prescribed by the<sup>1</sup>[Provincial Government];

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>Clause (ia) was inserted by s. 5(3) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

<sup>3</sup>This word was inserted by s. 5(4)(a), *ibid*.

<sup>4</sup>The words "or other preservative," were omitted by s. 5(4) (b), *ibid*.

<sup>5</sup>The words "preservative or" were omitted by s. 5(4)(b), *ibid*.

(Part V.—Chapter XXVIII.—Food and drugs.—  
Sec. 407.)

(iii) in the case of ghee

it shall contain only substances, other than curds, which are derived exclusively from the milk of cows or of buffaloes, and shall fulfill such conditions as may be prescribed by the <sup>1</sup>[Provincial Government];

(iv) in the case of wheat flour—

it shall not contain any substance which is not derived exclusively from wheat;

(v) in the case of mustard oil

**Rule 340—**

In clause (vi) of sub-section (1) of section 407, for the words "it shall not contain any substance which" read "it shall be the leaves and leaf buds of".

[No. 15, dated the 14th October, 1941.]

oil mustard

... which by fermenting, drying and firing; it shall not contain any tea which has been in any measure deprived of its proper quality, strength or virtue by steeping, infusion, decoction or other means, or any foreign matter;

(vi) in the case of edible oil or <sup>2</sup>[edible fat]—

it must always conform to <sup>3</sup>[the specification or] the standard prescribed for the same, provided that if a declaration be made that it is not for human consumption, it is denatured in such a way that it can be easily detected by sight or smell; and

(vii) in the case of any food or drug notified by the <sup>1</sup>[Provincial Government] under clause (h)—

it shall fulfil such conditions as may be prescribed by the <sup>1</sup>[Provincial Government] in regard to such food or drug in such notification.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>These words were substituted for the word "fat" by s. 3 (2) of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).

<sup>3</sup>These words were inserted by s. 3 (2), *ibid*.

*(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 408, 409.)*

(2) No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, anything which is similar to any of the articles specified in clauses (a), (b), (c), (d), (e), (f) and (g) of sub-section (1), or to any article notified by the <sup>1</sup>[Provincial Government] under clause (h) of that sub-section under a name which in any way resembles the name of such article.

(3) In any prosecution under this section it shall be no defence to allege that the vendor, manufacturer or storer was ignorant of the nature, substance or quality of the article sold, exposed or hawked about for sale, or manufactured or stored for sale, by him.

(4) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any of the articles specified in clauses (a), (b), (c), (d), (e), (f) and (g) of sub-section (1), or any article notified by the <sup>1</sup>[Provincial Government] under clause (h) of that sub-section, found in the possession of a person who is in the habit of manufacturing or storing like articles, has been manufactured or stored for sale by such person.

**408.** (1) Every manufactory of <sup>2</sup>[mustard oil, edible oil or edible fat] within Calcutta shall be registered by the owner or the person in charge thereof in the Corporation office in such manner as the Corporation may from time to time direct.

Registration of  
manufactory.

(2) Every owner or person in charge of a manufactory of <sup>2</sup>[mustard oil, edible oil or edible fat], and every wholesale dealer in such substances, shall keep a register in the form prescribed by the Corporation, showing the quantity and destination of each consignment of such substances sent out from his manufactory or place of business, and this register shall be open to inspection by any officer duly authorised by the Corporation in this behalf.

**409.** Any officer duly authorised in this behalf by the Corporation shall have power to enter at all reasonable times any manufactories registered under section 408 and to inspect any process of manufacture or

Inspection of  
manufactories.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>These words were substituted for the words "mustard oil or other edible oils" by s. 4 of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).



(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 410-413.)

treatment used therein and to take samples for analysis of any <sup>1</sup>[mustard oil or edible oil or edible fat] or of any article capable of being used in the manufacture, treatment or adulteration of any such article as aforesaid.

Prohibition of adulterants in places where butter, ghee, etc., are manufactured or stored.

**410.** (1) No person shall keep or permit to be kept in any shop or place in which milk is stored or in any manufactory, shop or place, in which butter, *ghee*, wheat flour, mustard oil, tea, edible oil <sup>2</sup>[edible fat] or any article notified by the <sup>3</sup>[Provincial Government] under clause (h) of sub-section (1) of section 407 is manufactured or stored, any substance intended to be used for the adulteration of such milk, butter, *ghee*, wheat flour, mustard oil, or other article.

(2) If any article capable of being so used is found in any such manufactory, shop, or place, the Court shall, unless and until the contrary is proved, presume, in any prosecution under this section, that it is intended to be used for the purposes of adulteration.

**411.** [*Receptacles for separated or skimmed condensed milk to be marked.*].—Rep. by s. 6 of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

Prohibition of sale of diseased animals or unwholesome articles intended for human food.

**412.** (1) No person shall sell, store for sale, expose or hawk about for sale, or keep for sale, any animal intended for human consumption which is diseased, or any food or drug intended for human consumption, or manufacture any such food or drug which is unsound, unwholesome, or unfit for human food.

(2) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any animal, food, or drug found in the possession of a person who is in the habit of keeping animals of that class intended to be used for human consumption, or of keeping or manufacturing such food or drug for the purpose of human consumption, has been so kept or manufactured, as the case may be, for sale by such person.

Licensing of shops and places for retail sale of drugs.

**413.** (1) No person shall keep any shop or place for the retail sale of drugs, not being also articles of ordinary domestic consumption, without a license from the Corporation.

<sup>1</sup>These words were substituted for the words "mustard oil or other edible oils" by s. 5 of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931.)

<sup>2</sup>These words were substituted for the words "or fat" by s. 6, *ibid.*

<sup>3</sup>See foot-note 1 on p. 331, *ante.*

(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 414, 415.)

(2) The person to whom such license is granted in respect of any shop or place shall display it in some conspicuous part of such shop or place.

✓ 414. The [Provincial Government] may make rules—

Power to  
Provincial  
Government to  
make rules as to  
compounders.

- (a) prescribing an educational course for candidates for compounders' certificates,
- (b) prescribing a fee to be paid by persons seeking admission to a Government medical school for the purpose of undergoing such educational course,
- (c) regulating the public examination of candidates for compounders' certificates, and prescribing the fee to be paid and the conditions to be observed by persons seeking admission to any such examination,
- (d) regulating the grant of compounders' certificates to persons passing any such examination,
- (e) regulating the registration of certificates so granted,
- (f) permitting any person having such qualifications as may be prescribed in this behalf in the rules to compound, mix, prepare, dispense or sell drugs without obtaining such a certificate, and
- (g) authorizing the cancellation of any certificate granted, or the withdrawal of any permission given, under the said rules, to any person who is proved in the course of a judicial trial to have made a serious mistake, through ignorance or carelessness in the compounding, mixing, preparation, dispensing or selling of drugs.

415. (1) No person shall compound, mix, prepare, dispense, or sell any drug in any shop or place licensed under section 413, unless he has a certificate or permission granted under rules made under section 414 and then in force.

Prohibition in  
respect of  
compounding  
of drugs.

(2) No owner, occupier or keeper of any shop or place licensed under section 413 shall employ in such

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

[Ben. Act III

(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 416-418.)

shop or place any person contravening the provisions of sub-section (1):

Provided that this sub-section shall not apply to compounders or persons employed by practitioners of indigenous medicines.

(3) If any person contravenes the provisions of sub-section (2), the Magistrate by whom he is tried may cancel the license granted to him under section 413, sub-section (1).

Saving as to  
titioners of  
nous  
nes.

**416.** Nothing in section 414 or section 415 shall apply to the sale of drugs used by practitioners of indigenous medicines when such drugs are not sold in a shop or place where medicines are dispensed upon prescription.

*Inspection, seizure and destruction of food and drugs.*

Power to Health  
Officer to inspect  
place where un-  
lawful slaughter  
of animals or  
sale of flesh is  
suspected.

**417.** If the Health Officer, or any person authorised by him in this behalf, has reason to believe that any animal intended for human consumption is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place, or manner not duly authorised under this Act, he may, at any time by day or by night, without notice, inspect such place for the purposes of satisfying himself as to whether any provision of this Act or of any rule or by-law made under this Act, at the time in force, is being contravened thereat.

Corporation to  
provide for  
inspection of  
animals,  
etc., exposed for  
sale

**418.** (1) The Corporation shall make provision for the constant and vigilant inspection of all animals, food and drugs intended for human consumption which are in course of transit or are exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale, .

and shall also make similar provision for the inspection, during the process of manufacture, of any such food or drug.

(2) If as a result of such inspection as is provided for in sub-section (1), a prosecution is instituted under this chapter, then the burden of proving that any such animal, food or drug was not exposed or hawked about or deposited or brought for sale or for preparation for sale, or was not intended for human consumption, shall rest with the party charged.

of 1923.]

(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 419, 420.)

**419.** (1) The Health Officer, or any person authorized by him in this behalf, may, at any time by day or by night, inspect and examine any animal, food, or drug referred to in section 418 and any utensil or vessel used for preparing, manufacturing or containing any such food or drug.

Power to Health Officer to seize animals, etc. which are diseased, etc.

(2) If any such animal appears to the Health Officer, or a person authorised as aforesaid, to be diseased or if any such food or drug appears to him to be unsound, unwholesome, or unfit for human food or for medicine, as the case may be, or to be adulterated, or if any such utensil or vessel is of such kind or in such state as to render any food or drug prepared, manufactured, or contained therein unwholesome or unfit for human food, or for medicine, as the case may be,

he may seize and carry away such animal, food, drug, utensil, or vessel, in order that the same may be dealt with as hereinafter in this chapter provided.

*Explanation*—(1) Meat subjected to the process of blowing shall be deemed to be unfit for human food.

(2) A vessel made of any corrosive metal or material, notified in this behalf by the <sup>1</sup>[Provincial Government] as dangerous to health, which is used for the preparation of liquid tea for sale shall be deemed to be of the kind referred to in this sub-section.

(3) The Health Officer, or a person authorised as aforesaid, may, instead of carrying away any animal, food, drug, utensil, or vessel seized under sub-section (2), leave the same in such safe custody as he thinks fit in order that the same may be dealt with as hereinafter in this chapter provided; and no person shall remove such animal, food, drug, utensil, or vessel from such custody or interfere or tamper with the same in any way while so detained.

**420.** (1) When any animal, food, drug, utensil, or vessel is seized under section 419, it may, with the consent of the owner or the person in whose possession it was found, be forthwith destroyed; or,

Destruction of animals, etc., seized under section 419.

if such consent be not obtained, then, if any food or drug so seized is of a perishable nature, and is, in the opinion of the Executive Officer, the Health Officer, and Assistant or District Health Officer or any Councillor or Alderman, unsound, unwholesome or unfit for human food or medicine, it may likewise be destroyed.

(2) The expenses incurred in taking any action under sub-section (1) shall be paid by the person in

<sup>1</sup>See foot-note 1 on p. 331, ante.

(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 421-423.)

whose possession such animal, food, drug, utensil, or vessel was at the time of its seizure.

Taking before  
Magistrate  
animals,  
etc., seized  
under section  
419.

**421.** (1) Any animal, food, drug, utensil, or vessel seized under section 419 which is not destroyed in pursuance of section 420 shall, subject to the provisions of section 419, sub-section (3), be taken before a Magistrate as soon as may be after such seizure.

(2) If it appears to the Magistrate that any such animal is diseased, or that any such food or drug is unsound, unwholesome, or unfit for human food, or for medicine, as the case may be, or is adulterated, or that any such utensil or vessel is of such kind or in such state as is mentioned in section 419, sub-section (2), or is used for preparing, manufacturing or containing such food or drug, he shall cause the same to be destroyed, at the expense of the person in whose possession it was at the time of its seizure or to be otherwise disposed of by the Corporation so as not to be capable of being used as human food or medicine.

(3) If it appears to the Magistrate that any such animal is not diseased or that any such food or drug is not unsound, unwholesome, or unfit for human food, or for medicine, as the case may be, or is not adulterated, or that any such utensil or vessel is not used for preparing, manufacturing, or containing the same, the person from whose shop or place the animal, food, drug, utensil, or vessel was taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award him such compensation, not exceeding the actual loss which he has sustained, as the Magistrate may think proper.

Power to  
Provincial  
Government to  
declare normal  
constituents of  
any article of  
food or drug.

**422.** The '[Provincial Government] may declare the normal constituents of any article of food or any drug and may determine, by rules in this behalf, what deficiency in any of these constituents, or what addition of extraneous matter or proportion of water in a sample of any article of food or drug, shall, for the purposes of this Act, raise a presumption until the contrary is proved that the article of food or drug is not genuine or is injurious to health; and a public analyst shall have regard to such rules in certifying the result of an analysis under this Act.

Power of pur-  
chaser to have  
article of food  
or drug analysed

**423.** Any purchaser of an article of food or drug shall be entitled, on payment of such fee as the Corporation may prescribe, to have such article analysed by

<sup>1</sup>See foot-note 1 on p. 331, ante.

of 1923.]

*(Part V.—Chapter XXVIII.—Food and drugs.—  
Sec. 424.)*

a public analyst and to receive from him a certificate in the form prescribed in Schedule XX to this Act, of the result of his analysis.

**424.** (1) If the Health Officer, or any person authorised by him in this behalf, requires the sale to him of any food or drug exposed or intended for sale, and tenders the price for a quantity not more than is reasonably requisite for division and disposal under sub-sections (4) and (5), any person in possession of or exposing the same for sale shall be bound to sell such quantity.

Compulsory  
sale to Health  
Officer for  
purpose of  
analysis.

(2) The Health Officer, or any person authorised by him in this behalf, may require, on tendering the price for it, the sale to him during the process of manufacture, of any quantity of—

- (i) any food, or
- (ii) any drug, or
- (iii) any ingredients used in the manufacture of any food or drug,

not being more than is reasonably requisite for division and disposal under sub-section (4) and sub-section (5), and any person in possession of the said food, drug or ingredients shall be bound to sell such quantity.

(3) The Health Officer, or any person authorised by him in this behalf, may likewise require the surrender to himself, for the purpose of analysis, of such quantity as is reasonably requisite for such process, of any food which is in course of transit in Calcutta or stored in any place in Calcutta for sale as an article for human consumption, and any person in possession of the same shall be bound to surrender such quantity;

and in every such case the price of the food so surrendered shall be payable by the Health Officer or by the person authorised by him, to the owner of the same, if claimed by such owner within one month from the date of the said surrender.

(4) When any sale under sub-section (1) or sub-section (2) is completed, or when any food is surrendered under sub-section (3), the Health Officer, or the person authorised by him in this behalf, or any purchaser who wishes to have an article of food analysed under section 423 shall forthwith notify to the seller,

[Sec. Ant 11]

(Part V.—Chapter XXVIII.—Food and drugs.—  
Secs. 425, 426.)

or his agent selling the article or the person in possession thereof, as the case may be, his intention to have the same analysed, and shall divide the article into three parts, to be then and there separated and each part to be marked and sealed or fastened up in any manner which its nature will permit.

(5) The Health Officer, or the person authorised by him in this behalf, or the purchaser referred to in subsection (4) shall deliver one of the said parts to the seller or his agent, shall retain another for future comparison, and may send the third to a public analyst.

Duty of public  
analyst to supply  
certificate of

**425.** (1) Every public analyst to whom any article of food has been submitted for analysis under this Act shall deliver to the person so submitting it a certificate in the form prescribed in Schedule XX to this Act, specifying the result of his analysis, and shall send a copy of the same to the Health Officer.

(2) Any document purporting to be such certificate signed by a public analyst shall be sufficient evidence in any inquiry, trial or proceeding under this Act of the result of such analysis:

Provided that any Court before which a case may be pending under this Act, whether exercising original, appellate, or revisional jurisdiction, may, of its own motion, or at the request either of the accused or the complainant, cause any article of food to be sent for analysis to the Director of Public Health, Bengal, or any other officer whom the <sup>1</sup>[Provincial Government] may appoint in this behalf, who shall thereupon analyse the same and report the result of such analysis to the said Court, and the said report shall be admissible in evidence in such Court. The expense of such analysis shall be paid by the accused or the complainant, as the Court may, by order, direct.

*Vesting of condemned food or drug in Corporation.*

Food and drugs  
directed to be  
destroyed, etc.,  
to be property  
of Corporation.

✓ **426.** When any authority directs, in exercise of any powers conferred by this chapter, the destruction of any food or any drug, or the disposal of the same so as to prevent its being used as food or medicine, the same shall thereupon be deemed to be the property of the Corporation.

<sup>1</sup>See foot-note 1 on p. 331, ante.

of 1923.]

(Part V.—Chapter XXIX.—Milk-supply.—  
Secs. 427, 428.)

## CHAPTER XXIX.

### MILK-SUPPLY.

**427.** In addition to the other powers and duties conferred or imposed on them by or under this Act or any other Act, for the time-being in force, the Corporation, in their discretion, may—

Special powers  
to the Corpora-  
tion.

- (i) establish, furnish, and maintain municipal dairies, grazing grounds, cattle-sheds and cow-houses either within or without Calcutta;
- (ii) subject to such terms and conditions as the Corporation may think fit to impose, subsidize by such means as they may consider proper or guarantee the payment from the funds at their disposal of such sums as they may think fit, by way of interest on the capital expended, on the establishment, extension, maintenance, equipment or furnishing of privately owned grazing grounds or private dairies either within or without Calcutta;
- (iii) provide or assist in the provision of, facilities for and in connection with, the transport of milk and other dairy produce to Calcutta from any municipal or private dairy;
- (iv) purchase, maintain, or dispose of stud-bulls and take such other measures as may appear to the Corporation to be desirable with a view to improving the local breed of cattle; and
- (v) establish, furnish, and maintain depot or stores for the sale of milk and other dairy produce from municipal and other dairies.

**428.** (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in that behalf,—

Licensing of  
dairyman.

- (a) carry on in Calcutta the trade or business of a dairyman; or
- (b) use any place in Calcutta for the sale of milk.

(2) Nothing in sub-section (1) shall apply to the sale of milk in any hotel or eating-house for consumption on the premises.



*(Part V.—Chapter XXIX.—Milk-supply.—  
Secs. 429-431.)*

Corporation to be satisfied as to the sanitary condition of dairies before granting license under section 428.

**429.** No person shall be licensed under section 428, sub-section (1), unless the Corporation, after due inquiry, are satisfied that the milk is obtained by him from a dairy, whether within or without Calcutta, in which the provisions for the ventilation, including air-space, and the cleansing, drainage and water-supply are such as in the opinion of the Corporation are necessary or proper—

- (a) for the health and good condition of the milch-cattle therein,
- (b) for the cleanliness of milk vessels used therein for containing milk for sale, and
- (c) for the protection of the milk against infection or contamination.

Power to require dairyman to furnish list of sources of supply.

**430.** If the Health Officer has reason to believe that any person in Calcutta is suffering or is likely to suffer from a dangerous disease attributable to milk supplied in Calcutta from any dairy situated within or without Calcutta, or that the consumption of milk from such place is likely to cause any person in Calcutta to suffer from a dangerous disease, the Health Officer may require the person supplying the milk to furnish, within a reasonable time to be fixed by the Health Officer, a complete list of all dairies from which that person's supply of milk is derived or has been derived during the last six weeks, and, if the supply or any part of it is obtained through any other person, may make a similar requisition upon him; and every person on whom any such requisition is made shall comply therewith.

Inspection of dairies and prohibition of milk-supply.

**431.** (1) The Health Officer may inspect, with a qualified Veterinary Surgeon, any dairy referred to in section 430, and the milch-cattle therein, and if, on such inspection, the Health Officer is of opinion that the dangerous disease is caused or is likely to be caused from consumption of the milk supplied therefrom, he may make an order prohibiting the supply of any milk for human consumption from such dairy.

(2) An order made by the Health Officer under sub-section (1) shall be forthwith withdrawn on his being satisfied that the milk-supply has been changed or that the cause of infection has been removed.

(3) When an order is made under sub-section (1) or is withdrawn under sub-section (2) in respect of a dairy situated outside Calcutta, the Health Officer shall also inform the local authority within whose jurisdiction the dairy is situated.

of 1922.]

*(Part V.—Chapter XXIX.—Milk-supply.—  
Secs. 432-434.)*

(4) When an order is made under sub-section (1), the Health Officer may direct such milk to be boiled and permit it to be sold or used under such reasonable restrictions as he may prescribe in this behalf for food of animals, or he may cause the milk to be destroyed.

(5) No person shall sell or supply any milk in contravention of the provisions of this section.

(6) No dairyman shall be liable to an action for breach of contract if the breach be due to an order passed under this section.

**432.** (1) If, on an inspection referred to in section 431, sub-section (1), the Health Officer is of opinion that any milch-cattle in such dairy are suffering from a disease which is likely to cause any person consuming the milk to suffer from a dangerous disease, he may cause any such animal to be seized and may send it to a veterinary hospital for treatment.

Power to seize and send milch-cattle to veterinary hospital for treatment.

(2) When any such animal has been sent to a veterinary hospital under sub-section (1), it shall be detained there until, in the opinion of the officer in charge of the hospital, it is cured.

(3) The cost of the treatment, feeding and watering of the animal in the hospital may be realized from the owner of the animal according to such scale of rates as the Corporation may, from time to time, prescribe.

(4) If the owner refuses or neglects to pay such cost or to remove the animal within such time as the officer in charge of the hospital may prescribe, that officer may direct the animal to be sold and the proceeds of the sale to be applied to the payment of such cost.

(5) The surplus, if any, of the sale-proceeds shall be held in deposit by the Corporation, and shall, on application to be made by the owner within six months after the date of sale, be paid to him.

**433.** Every person licensed under section 428, sub-section (1), shall notify to the Health Officer all cases of dangerous disease among persons engaged in, or in connection with the dairy, whether within or without Calcutta, from which he obtains his supply of milk for sale in Calcutta, as soon as he becomes aware or has reason to suspect that such dangerous disease exists.

Licensed to notify infectious diseases existing among persons engaged in dairies.

**434.** The provisions of section 507 shall be applicable to an entry to inspect a dairy, whether within or without Calcutta, from which any milk is obtained for sale in Calcutta, for the purposes of this Act.

Application of section 507 to an entry to inspect dairy.

*The Calcutta Municipal Act, 1923.*

[*Ben. Act III*]

*(Part V.—Chapter XXX.—Restraint of infection.—  
Secs. 435-438.)*

CHAPTER XXX.

Restraint of infection.

Medical practitioners to give information of existence of dangerous disease.

**435.** Every medical practitioner who, in the course of his practice, becomes cognizant of the existence of any dangerous disease in any private or public dwelling-house, other than a public hospital, shall give information of the same with the least practicable delay to the Health Officer in such form and with such details as the Health Officer may, from time to time, require.

Power to Health Officer to inspect places and take measures to prevent spread of dangerous disease.

**436.** The Health Officer, or any other municipal officer authorized by him in this behalf, may, at any time by day or by night, without notice, or after giving such notice of his intention as may, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he may think fit to prevent the spread of the said disease beyond such place.

Prohibition of use, for drinking or for other domestic purpose, of water likely to cause dangerous disease.

**437.** (1) If it appears to the Health Officer that the water in any well, tank or other place is likely, if used for the purpose of drinking or for any other domestic purpose, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for such purpose.

(2) No person shall remove or use for such purpose any water in respect of which any such public notice has been issued.

Power to Health Officer to remove patient to hospital in certain cases

**438.** (1) When, in the opinion of the Health Officer, any person is suffering from a dangerous disease and is also without proper lodging or accommodation or is lodged in such a manner that he cannot be effectually isolated so as to prevent the spread of infection, and the said officer considers that such person should be removed to a hospital or place at which patients suffering from such disease are received for medical treatment, he may, with the approval of the Executive Officer, direct or cause the removal of such person to such hospital or place:

Provided that all costs incurred for the removal and in the treatment of any such patient may be borne by the Corporation:

Provided also that, if any such person is a female, she shall not be removed to any such hospital or place unless the same has accommodation for females, of a

of 1923.]

(Part V.—Chapter XXX.—*Restraint of infection.*—  
Secs. 439, 440.)

suitable kind, and set apart from the portion assigned to males.

(2) The person (if any) who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

(3) If any female who, according to the custom of the country, does not appear in public, be removed to any hospital or place under sub-section (1)—

- (a) the removal shall be effected in such a way as to preserve her privacy;
- (b) special accommodation suited to such custom shall be provided for her in such hospital or place;
- (c) she shall be treated therein by female agency only;
- (d) her female relatives shall be allowed to remain with her.

**439.** (1) If the Health Officer, or any municipal officer authorized by him in this behalf, is of opinion that the cleansing or disinfecting of any building or any part of a building, or of any article therein which is likely to retain infection, or of any tank, pool or well adjacent to a building, would tend to prevent or check the spread of any dangerous disease, he may cleanse or disinfect such building, part, article, tank, pool or well and may, by written notice, require the occupier of such building or any part thereof to vacate the same for such time as may be prescribed in such notice.

Power to  
Health Officer  
to disinfect  
building, tank,  
pool or well.

(2) The cost of cleansing or disinfecting any building or part thereof, or any article therein, under sub-section (1), shall be paid by the occupier of such building and the cost of cleansing or disinfecting any tank, pool or well, under the said sub-section, shall be paid by the person in actual possession of such tank, pool or well, or if there be no such person, by the owner thereof:

Provided that if, in the opinion of the Corporation, the owner or occupier is from poverty unable to pay the said cost, the Corporation may direct payment thereof to be made from the Municipal Fund.

**440.** (1) If the Health Officer is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances

Power to  
Health Officer  
to destroy huts  
and sheds.

(Part V.—Chapter XXX.—*Restraint of infection.*—  
Secs. 441, 442.)

of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation not exceeding the value of the hut shall be paid by the Corporation to any person who sustains loss by the destruction of any such hut or shed; but, except as so allowed by the Corporation, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by sub-section (1).

Infected building not to be let without being first disinfected.

**441.** No person shall let a building or any part of a building in which he knows or has reason to know that a person has been suffering from a dangerous disease,—

(a) unless the Health Officer has disinfected the same and has granted a certificate to that effect, and

(b) until a date specified in such certificate as that on which the building or part may be occupied without causing risk of infection.

*Explanation.*—For the purposes of this section the keeper of an hotel or inn shall be deemed to let part of his building to any person accommodated therein.

Provision of places for disinfection, washing or destruction of infected articles and power to Health Officer to disinfect or destroy such articles.

**442.** (1) The Corporation may provide a place or places, with all necessary apparatus and establishment, for the disinfection of conveyances, clothing, bedding or other articles which have become infected; and when any articles have been brought to any such place for disinfection, may cause them to be disinfected either,—

(a) free of charge; or,

(b) in their discretion, on payment of such fees as they may from time to time fix in this behalf.

(2) The Corporation may from time to time, by public notice, appoint a place or places at which conveyances, clothing, bedding or other articles which have been exposed to infection from any dangerous disease may be washed; and no person shall wash any such articles at any place not so appointed, without having previously disinfected the same.

(3) The Health Officer, or any person authorized by him in this behalf, may disinfect or destroy, or, by written notice, direct the disinfection or destruction of any clothing, bedding or other articles likely to retain infection.

of 1923.]

(Part V.—Chapter XXX.—*Restraint of infection.*—  
Secs. 443-445.)

(4) The Corporation shall pay such compensation as may appear to them reasonable for any article destroyed under sub-section (3), and their decision shall be final.

**443.** (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit, or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

Infected articles not to be transmitted, etc., without previous disinfection.

(2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

(1) No person who is suffering from a dangerous disease shall enter, or cause or permit himself to be carried in, a public conveyance, nor shall any other person knowingly cause or permit a person in his charge and suffering from a dangerous disease or the dead-body of any person who has died from such disease to be carried in a public conveyance without—

Restrictions on carriage of patient or dead-body in public conveyance.

(a) previously notifying to the owner, driver, or person in charge of such conveyance that he is so suffering, and

(b) taking proper precautions against spreading such disease.

(2) Notwithstanding anything contained in any enactment relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid or any such dead-body in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

(3) No owner, driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid or any such dead-body in contravention of sub-section (1).

**445.** (1) The owner, driver or person in charge of any public conveyance in which any person suffering from a dangerous disease or the dead-body of any person who has died from such disease has been carried shall immediately take the conveyance for disinfection to a place appointed under section 442, sub-section (1).

Disinfection of public conveyance after carriage of patient or dead-body.

(2) The person in charge of such place shall forthwith intimate to the Health Officer the number of the conveyance and proceed to disinfect the conveyance.

[Ben. Act 111]

(Part V.—Chapter XXX.—Restraint of infection.—  
Chapter XXXI.—Registration of births and deaths  
and disposal of the dead.—Secs. 446-448.)

(3) No such conveyance shall be used until the Health Officer has granted a certificate stating that it may be used without causing risk of infection.

Power to  
Corporation  
to provide  
special convey-  
ances for  
patient or  
dead-body.

**446.** (1) The Corporation may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease or of the dead-bodies of persons who have died from any such disease.

(2) When such conveyances have been provided, it shall not be lawful, without the sanction of the Health Officer, to carry any such person or dead-body in, or for any such person to cause himself to be carried in, any other public conveyance.

Power to  
Corporation  
to take special  
measures on  
outbreak of  
dangerous  
disease or  
infectious  
epizootic  
disease.

**447.** In the event of Calcutta being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious epizootic disease breaking out or being likely to be introduced into Calcutta, the Corporation, if they consider that the other provisions of this Act or the provisions of any other enactment for the time being in force are insufficient for the purpose, may, with the sanction of the<sup>1</sup>[Provincial Government], —

(a) take such special measures, and,

(b) by public notice, prescribe such temporary rules to be observed by the public or by any person or class of persons,

as they may deem necessary to prevent the outbreak of such diseases or the spread thereof.

## CHAPTER XXXI.

### REGISTRATION OF BIRTHS AND DEATHS. AND DISPOSAL OF THE DEAD.

#### *Registration of births and deaths.*

Appointment of  
registrars and  
sub-registrars,  
and list of

**448.** (1) The Health Officer shall be chief registrar of Calcutta and shall keep, in such form as may from time to time be prescribed by the<sup>1</sup>[Provincial Government], a register of all births and deaths occurring in Calcutta.

<sup>1</sup>See foot-note 1 on p. 381, ante.

of 1923.]

*(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Secs. 449-451.)*

(2) The Corporation shall, for the purposes of this chapter, divide Calcutta, into such and so many districts as they may think fit, and shall appoint a person to be registrar of births and deaths for each such district.

(3) On the occurrence of any dangerous disease, the Corporation may appoint as many additional registrars as they may think necessary.

(4) The Corporation shall appoint a sub-registrar for each registered burial or burning ground or other place for the disposal of the dead, to register all corpses brought thereto for interment or cremation or for disposal otherwise:

Provided that it shall be competent to the Corporation to appoint the same sub-registrar for more than one such burial or burning ground or other place.

(5) The Corporation shall cause to be printed and published a list containing the name and address of every registrar and sub-registrar appointed under this section.

**449.** The Corporation shall cause to be prepared and printed a sufficient number of register-books in such form as may from time to time be prescribed by them, for making entries of all births and deaths occurring in Calcutta. Register-books.

**450.** A registrar shall inform himself of every birth and death occurring in his district, and shall ascertain and register, as soon as conveniently may be after the event, and without fee or reward, the particulars prescribed in Schedule XXI or Schedule XXII, as the case may be, in respect of every birth or death which has not been already registered. Registrar to inform himself of, and register, births and deaths.

**451.** It shall be the duty of the father or mother of every child born in Calcutta and, in default of the father or mother, of any relation of the child living in the same premises, and in default of such relation, of the person having charge of the child, to give, to the best of his knowledge and belief, to the registrar of the district within eight days after such birth, information of the several particulars prescribed in Schedule XXI: Information of birth by whom to be given.

Provided that if any one of the persons hereinbefore referred to gives the said information, no other person shall be bound to give it:

Provided also that, in the case of an illegitimate child, no person shall, as father of such child, be



(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Secs. 452-454.)

required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother.

Information of death by whom to be given.

**452.** It shall be the duty of nearest relatives present at the time of the death or in attendance during the last illness of any person dying in Calcutta, and in default of such relatives, of each person present or in attendance at the time of the death, and of the occupier of the premises in which, to his knowledge, the death took place, and in default of the persons hereinbefore in this section mentioned, of each inmate of such premises, and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the registrar of the district, or to the sub-registrar of the burial or burning ground or other place for the disposal of the dead where the body is buried or burnt or otherwise disposed of, information of the several particulars prescribed in Schedule XXII:

Provided that if any of the persons hereinbefore referred to gives the said information, no other person shall be bound to give it:

Provided also that if the death occurs in a hospital, none of the said persons shall be bound to give such information but it shall be the duty of the medical officer in charge of the hospital, within twelve hours after the death, to send to the Health Officer a written notice containing the several particulars prescribed in Schedule XXII.

Medical practitioners to send to Health Officer notice stating cause of death.

**453.** The medical practitioner in attendance during the last illness of any person dying in Calcutta shall, within three days of his becoming cognizant in the course of such attendance of the death of such person, send a written notice to the Health Officer, as nearly as may be in the form prescribed in Schedule XXII, stating, to the best of his judgment, the cause of death.

Duties of police with regard to unclaimed corpses.

**454.** It shall be the duty of the police to convey every unclaimed corpse to a burial or burning ground or other place for the disposal of the dead, or to a duly appointed mortuary, and thereafter to inform the registrar of the district in which such corpse was found.

of 1923.]

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Secs. 455-457.)

✓ 455. A sexton or keeper of a burial or burning ground or other place for the disposal of the dead, whether situated in Calcutta or not, shall not bury, burn or otherwise dispose of, or allow to be buried or burnt or otherwise disposed of, the corpse of any person who has died in Calcutta unless such corpse is accompanied by a certificate, in the form prescribed by Schedule XXII, signed by a registrar or sub-registrar appointed under section 448 or by a registered medical practitioner or any other medical practitioner authorized in this behalf by the <sup>1</sup>[Provincial Government] :

Sextons, etc., not to bury, etc., corpses without certificate.

Provided that, at any burial or burning ground or other place for the disposal of the dead where there is a sub-registrar approved in this behalf by the Corporation who keeps a register in the form prescribed by the said schedule, an entry in such register relating to the deceased shall be deemed sufficient.

456. The <sup>1</sup>[Provincial Government] may make rules—

Power to Provincial Government to make rules.

- (a) prescribing the qualifications to be required in persons appointed to be registrars or sub-registrars under this chapter;
- (b) generally, for the guidance of the Corporation, the Health Officer, registrars and sub-registrars in all matters connected with the carrying out of the provisions of this chapter.

### *Disposal of the dead.*

457. (1) Every owner or keeper of a place, not vested in or owned by the Corporation or a Board appointed by the <sup>1</sup>[Provincial Government] for the administration of such place, which is used for burying, burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by the Corporation, and shall deposit in the municipal office at the time of registration a plan of the said place showing the extent and boundaries thereof and bearing the signature of a surveyor in token of its having been prepared by or under the supervision of such surveyor.

Registration of places for disposal of the dead.

(2) All burial and burning grounds shall be classified by the Corporation in the said register as public or private.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Secs. 458-460.)

Provision and registration of new places for disposal of the dead.

If the existing places for the disposal of the dead appear to the Corporation at any time to be insufficient, they shall—

- (a) provide other fit and convenient places for the disposal of the dead, either in or without Calcutta,
- (b) cause the same to be registered in the register kept under section 457, sub-section (1), and
- (c) cause to be kept in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same.

Permission of the Corporation required for opening or re-opening places for disposal of the dead.

**459.** Except with the written permission of the Corporation—

- (a) no place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person as such place, and
- (b) no burial or burning ground or other place for the disposal of the dead which has fallen into disuse shall be again used as such.

Power to Provincial Government to direct the closing of any place for the disposal of the dead.

**460.** (1) If, from information furnished by competent persons and after personal inspection, the Health Officer is at any time of opinion—

- (a) that any place of public worship is, or is likely to become, injurious to health by reason of the state of the vaults or graves within the walls of, or underneath, such place or in any churchyard or burial ground adjacent thereto, or
- (b) that any other place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health,

he may submit his said opinion, with the reasons therefor, to the Corporation, who shall forward the same, with their opinion, for the consideration of the <sup>1</sup>[Provincial Government].

(2) Upon receipt of such opinion, the <sup>1</sup>[Provincial Government], after such further inquiry (if any) as they deem fit to make, may, by notification published

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

of 1923.]

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Secs. 461, 462.)

in the <sup>1</sup>[Official Gazette] and in local newspapers, direct that such place of public worship, churchyard, burial ground or other place for the disposal of the dead shall no longer be used for disposal of the dead.

(3) Every such notification shall be noted in the register kept under section 457, sub-section (I).

(4) On the expiration of two months from the date of any such notification, the place to which the same relates shall be closed for the disposal of the dead.

(5) A copy of the said notification, with a translation thereof in the Bengali, Hindi and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the notification relates, unless such place be a place of public worship.

**461.** (1) If, after personal inspection, the Health Officer is at any time of opinion that any place formerly used for the disposal of the dead which has been closed under section 460 or under any other enactment or authority has, by lapse of time, become no longer injurious to health and may, without risk of danger, be again used for the said purpose,

Power to Provincial Government to direct reopening of place closed under section 460 or other enactment.

he may submit his said opinion, with the reasons therefor, to the Corporation, who shall forward the same, with their opinion, for the consideration of the <sup>2</sup>[Provincial Government].

(2) Upon receipt of such opinion, the <sup>3</sup>[Provincial Government], after such further inquiry (if any) as they deem fit to make, may, by notification published in the <sup>1</sup>[Official Gazette]; direct that such place be reopened for the disposal of the dead.

(3) Every such notification shall be noted in the register kept under section 457, sub-section (I).

**462.** (1) No person shall, without the written permission of the Executive Officer,—

Prohibition of certain acts without the permission of the Executive Officer.

(a) make any vault, grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship; or

(b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 460; or

<sup>1</sup>See foot-note 1 on p. 329, ante.

<sup>2</sup>See foot-note 1 on p. 331, ante.

*The Calcutta Municipal Act, 1923.*

[*Ben. Act III*]

*(Part V.—Chapter XXXII.—Census.—Secs. 463, 464.)*

(c) build, dig or cause to be built or dug any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse, at any place which is not registered in the register kept under section 457, sub-section (1); or

(d) exhume any body from any place for the disposal of the dead, except under the provisions of section 176 of the Code of Criminal Procedure, 1898, or of any other relevant enactment for the time being in force.

Act V of  
1898.

(2) Such permission may be granted by the Executive Officer in special cases only and subject to such general or special orders as the <sup>1</sup>[Provincial Government] may make in this behalf.

(3) An offence against clauses (b), (c) or (d) of sub-section (1) shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the said Code of Criminal Procedure, 1898.

CHAPTER XXXII.

CENSUS.

Census when  
and how to be

463. (1) At such time and in such manner as the Corporation, with the sanction of the <sup>1</sup>[Central Government], may from time to time direct, an enumeration shall be made of all persons then being in Calcutta.

(2) When any time is appointed under sub-section (1) the <sup>2</sup>[Central Government] shall, at least one month before that time, publish a notification in the <sup>3</sup>[*Official Gazette*], and in such local newspapers, English and vernacular, as they may think fit, announcing the said time and containing all other particulars of which they consider the residents should be informed.

Superintendence  
of enumeration.

464. Any person specially appointed by the Corporation for the purpose (hereinafter called the Superintendent) shall, subject to the general control of the

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<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>These words were substituted for the words "Local Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>See foot-note 1 on p. 329, *ante*.

(Part V.—Chapter XXXII.—Census.—Secs. 465-467.)

Corporation, superintend the making of every enumeration under this chapter, and shall cause to be prepared and issued, for the purposes of such enumeration, such forms and instructions as he may consider necessary and as may be sanctioned by the <sup>1</sup>[Central Government].

**465.** The expenses incurred in making any enumeration under this chapter shall be paid out of the Municipal Fund. Expenses of enumeration.

**466.** (1) The Superintendent shall appoint a sufficient number of competent persons to act as enumerators for the purposes of this chapter. Appointment and duties of enumerators.

(2) Every enumerator shall obey all written instructions issued to him by the Superintendent for the making of the enumeration, and shall, under the direction of the Superintendent, and on the day to be appointed by the Corporation in this behalf,—

- (a) visit every building within the area to which he has been appointed;
- (b) take an account in writing of the name, sex, age, caste (if any), nationality and occupation of every person abiding in such building on the night immediately preceding the said day; and
- (c) take an account in writing of all occupied buildings, all buildings then being built and uninhabited and all other uninhabited buildings:

Provided that no female shall be required to disclose her name or age.

**467.** (1) The following persons, namely,—

- (a) any military or naval officer in command of a body of military or naval men or of a vessel of war, or any police-officer,
- (b) any master of a merchant vessel, or any officer of the Port Commissioners in charge of a despatch vessel or dredger,
- (c) any *serang* or *tindal*, or any person in charge of a vessel or boat,
- (d) any person in charge of lunatic asylum, hospital or prison, or of any public or private charitable or scholastic institution, and
- (e) any keeper of an hotel or lodging-house,

Military, naval and police officers and certain other persons, if required, to act as enumerators.

<sup>1</sup>See foot-note 2 on p. 362, ante.

(Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Secs. 468, 469.)

shall, if required by the Superintendent, act as an enumerator for the purpose of taking an account in writing of the name, sex, age, caste (if any), nationality and occupation of every person under his command or charge, or abiding in any building in his possession, charge or control, on the night immediately preceding the day appointed under section 466, sub-section (2), and shall obey all instructions issued to him in writing by the Superintendent for the purposes of taking such account.

(2) If any person upon whom a requisition is made under sub-section (1) is unable to write, an enumerator appointed under section 466, sub-section (1), shall fill up any form supplied to such person under that sub-section.

## PART VI.

### CHAPTER XXXIII.

#### ACQUISITION, DISPOSAL AND GENERAL IMPROVEMENT OF LAND AND BUILDINGS.

##### *Acquisition and disposal of land and buildings.*

**468.** The Corporation may acquire any land and buildings, whether situated in Calcutta or not,—

- (i) for the purpose of opening out any congested or unhealthy area or of otherwise improving any portion of Calcutta; or
- (ii) for the purpose of erecting sanitary dwellings for the working and poorer classes.

Power to Corporation to acquire land and buildings for improvements.

**469.** (1) When any land or building has been acquired under section 468 for the purpose of carrying out any work, the Corporation shall frame a scheme for carrying out such work either by themselves or by any co-operative building society or by any other person whom they may select to carry out the same.

Scheme for carrying out improvements.

(2) When any scheme is framed under sub-section (1) for the carrying out of work by any person other than the Corporation, the scheme shall embody the terms and conditions agreed upon between the Corporation and such person;

of 1922.]

*(Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Secs. 470, 471.)*

and such conditions shall be deemed to include a power to the Corporation to superintend and control the execution of the work.

(3) Every scheme framed under sub-section (1) shall be published in the <sup>1</sup>[*Official Gazette*] and in such other manner as the Corporation may think fit, together with a notice specifying a period within which objections will be received.

(4) The Corporation shall consider all objections received within the said period, and shall submit the documents to the <sup>2</sup>[*Provincial Government*] with such recommendations as they may desire to make.

(5) The <sup>2</sup>[*Provincial Government*], after considering the said objections and recommendations (if any), may confirm the scheme, and before doing so may modify it, but not so as to extend its effect.

**470.** When any scheme for the carrying out of work by the Corporation themselves has been confirmed by the <sup>2</sup>[*Provincial Government*] under section 469, sub-section (5), the Corporation may proceed to carry out the work in accordance with the scheme.

Power to Corporation to carry out improvements.

**471.** (1) When any scheme for the carrying out of work by any person other than the Corporation has been confirmed by the <sup>2</sup>[*Provincial Government*] under section 469, sub-section (5), the Corporation may sell, lease or otherwise transfer to such person the land and buildings which have been acquired under section 468, for the purpose and under the condition that he will carry out such work in accordance with the said scheme.

Transfer of land and buildings to person for carrying out improvements.

(2) Every sale effected or lease granted by the Corporation under this section shall be deemed to include a covenant authorizing the Corporation to re-enter if the purchaser or the lessee—

- (a) fails to carry out any work in accordance with the said scheme, or,
- (b) after carrying out the work, uses the land or buildings leased to him, or any part thereof, or allows the same to be used, for any purpose which is inconsistent with the said scheme;

<sup>1</sup>See foot-note 1 on p. 329, ante.

<sup>2</sup>See foot-note 1 on p. 331, .



*(Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Secs. 472, 473.)*

and such covenant shall be binding on all transferees from the original purchaser or lessee.

(3) Before possession of any land or building is given to any person by the Corporation in pursuance of any contract (other than a lease) made under this section, the Corporation shall take security from such person for the due carrying out and maintenance of work in accordance with the said scheme.

*Additional powers for acquisition, disposal, etc.*

Further powers to Corporation for acquiring and disposing of land or buildings.

**472.** In addition to the powers expressly conferred by any other section of this Act for the acquisition and disposal of land or buildings, the Corporation may—

- (i) acquire, or pay rent for, or take on lease under such conditions as they may think fit, any land and buildings, whether situated in Calcutta or not, which may, in their opinion, be needed for carrying out any of the purposes of this Act,
- (ii) sell, lease or otherwise transfer, on such terms as they may think fit, any land or building vested in them, and
- (iii) purchase any land or buildings outside Calcutta in execution of a decree made by a Court in their favour.

Procedure when Corporation lease or sell land acquired by them.

**473.** Whenever the Corporation decide to lease or sell any land acquired by them under this Act from any person, they—

- (a) shall give notice by advertisement in local newspapers; and
- (b) shall offer a prior right to take on lease or purchase such land to any person or his heirs, executors or administrators, who formerly had any interest in such land, or who, in the opinion of the Corporation, has a superior claim to such land, or if it appears to the Corporation that no person has such a superior claim, the Corporation shall put up to auction the right to take on lease or purchase such land among all persons who, previous to its acquisition, had interests in any portion of such land greater than a lease for years having seven years to run :

of 1923.)

*(Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Secs. 474, 475.)*

Provided that the prior right referred to in clause (b) need not be offered or put up to auction, if the Corporation consider that to do so would be detrimental to the carrying out of the purposes of this Act:

Provided also that before putting up to auction the right to take a lease or purchase such land, the Corporation may fix a minimum reserve price, below which the said right shall not be sold.

*Exemption.*

**474.** Nothing in this Act shall authorise the Corporation to acquire for the purposes of this chapter or of any other section of this Act any building which is intended solely for and is used solely as a place of public worship.

Exemption of places of public worship from acquisition.

*General provisions.*

**475.** Any land or buildings which the Corporation are authorized by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, 1894, and for that purpose the said Act shall be subject to the amendment that the market-value of any land or building to be acquired shall be deemed, for the purposes of clause first of sub-section (1) of section 23 of the said Land Acquisition Act, to be the market-value according to the disposition of such land or building at the date of publication of the declaration relating thereto under section 6 of the said Land Acquisition Act:

Application of Land Acquisition Act, 1894, with amendment.

I of 1894.

Provided as follows:—

- (i) if, within a period of two years from the date of the publication of such declaration in respect of any land or building, the Collector has not made an award under section '[11]' of the said Land Acquisition Act with respect to such land or building, the owner of the land or building shall be entitled to receive compensation for the damage suffered by him in consequence of the delay;
- (ii) if it be shown that, before such declaration was published, the owner of the land or building

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<sup>1</sup>This figure was substituted for the figure "26" by s. 7 of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

*The Calcutta Municipal Act, 1923.*

[*Ben. Act 111*

(*Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Chapter XXXIV.—Special powers to the Corporation.—Secs. 476, 477.*)

had taken active steps and incurred expenditure to secure a more profitable disposition of the same, further compensation, based on his actual loss, may be paid to him;

(iii) if the market-value is specially high in consequence of the property being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market-value shall be deemed to be the market-value of the land or building if put to ordinary uses;

(iv) if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within one year before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act. I of 1894.

Vesting in  
Corporation of  
land and

the Land  
Acquisition Act,  
1894.

**476.** On payment by the Corporation of the compensation awarded under the said Land Acquisition Act, 1894, in respect of any land or buildings and of any other charges incurred in acquiring the said land or buildings, the same shall vest in the Corporation.

CHAPTER XXXIV.

SPECIAL POWERS TO THE CORPORATION.

Special powers  
to the  
Corporation.

**477.** In addition to the other powers and duties conferred or imposed on them by or under this Act or any other Act for the time being in force, the Corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely,—

(i) the planting and preservation of trees in public streets and public places;

(ii) the construction, alteration, maintenance and adornment of public halls, offices and other buildings under the control of the Corporation or required for municipal purposes;

*The Calcutta Municipal Act, 1923.*

*(Part VI.—Chapter XXXIV.—Special powers to the Corporation.—Sec. 477.)*

- (iii) the laying out and maintenance of squares, gardens and playgrounds, and the supplying and maintenance of equipment for games in playgrounds;
- (iv) the playing of music in squares, gardens or other public places;
- (v) the survey of buildings and lands, and the preparation and maintenance from time to time of survey maps and plans and of the records relating thereto;
- (vi) the construction and maintenance of hospitals, infirmaries, alma-houses, asylums, orphanages, industrial schools and auxiliary homes for the purposes of the Bengal Children Act, 1922, and of public training schools for nurses, either in Calcutta, or (if such institutions are for the benefit of persons residing in Calcutta) without Calcutta, and arrangements for keeping a sufficient staff in such institutions;
- (vii) the payment of contributions to the cost of such orphanages, industrial schools and auxiliary homes for the purposes of the Bengal Children Act, 1922, and of public training schools for nurses or institutions for providing nurses and of the staff of these institutions and the other institutions referred to in clause (vi);
- (viii) the establishment, maintenance and administration of veterinary hospitals and dispensaries in Calcutta;
- (ix) the payment of contributions to the cost of such veterinary hospitals and dispensaries;
- (x) the payment of contributions towards any public fund raised for the relief of human suffering within Calcutta;
- (xi) the payment of contributions to charitable institutions in Calcutta for assisting in the disposal of unclaimed corpses and the burial or cremation of paupers;
- (xii) vaccination;
- (xiii) the promotion of technical and industrial education;

**Ben. Act  
II of  
1922.**

(Part VII.—Chapter XXXV.—By-laws and rules.—  
Sec. 478.)

- <sup>1</sup>(xiii<sup>a</sup>) assistance to schools in which persons employed on manual labour above the ages specified in section 91 receive primary education and to *tols*, *madrasahs*, and *maktabs*;
- (xiv) free libraries;
- (xv) the payment of, or the payment of a contribution to, the cost incurred on the occasion of any public ceremony or entertainment or any exhibition for the purpose of instruction or education, held in Calcutta;
- (xvi) the payment of contributions to the Commissioners of any neighbouring municipality for expenditure on sanitary purposes;
- (xvii) the presentation of addresses to persons of distinction; and
- (xviii) any other matter likely to promote the public health, safety or convenience or the carrying out of this Act, which the <sup>2</sup>[Provincial Government], on the recommendation of the Corporation made in pursuance of a resolution in favour of which not less than two-thirds of the Councillors and Aldermen present and voting have voted, may declare in this behalf.

## PART VII.

### CHAPTER XXXV.

#### BY-LAWS AND RULES.

Power to  
Corporation  
to make  
bye-laws.

**478.** The Corporation may make by-laws generally for carrying out the provisions and intentions of this Act; and in particular, and without prejudice to the generality of the foregoing power, they may make by-

- (1) for the subdivision, amalgamation, renewal and exchange of municipal debentures issued under Chapter VIII;
- (2) regulating—
  - (a) the detention and examination of petroleum introduced into Calcutta for consumption therein;

<sup>1</sup>Clause (xiii<sup>a</sup>) was inserted by s. 2 of the Calcutta Municipal (Amendment) Act, 1934 (Ben. Act III of 1935).

<sup>2</sup>See foot-note 1 on p. 331, ante.

of 1922-1

*(Part VII.—Chapter XXXV.—By-laws and rules.—  
Sec. 478.)*

- (b) the collection of any tax imposed under section 181, sub-section (3); and
- (c) such other matters connected with the introduction of petroleum into Calcutta for consumption therein as the Corporation may from time to time think fit to regulate;

Provided that no such by-law shall render petroleum, passing through Calcutta in transit for any place beyond Calcutta, liable to taxation or to any detention or examination whatsoever under this Act;

- (3) prescribing the size, the make, the length of the nave, and the minimum width of tyres of carts, the maximum load which they shall be permitted to carry, and generally prescribing the conditions under which persons shall be permitted to own and drive registered carts;
- (4) prescribing the procedure to be followed by owners or occupiers desiring a water-supply;
- (5) prescribing a schedule of charges for water supplied for other than domestic purposes;
- (6) regulating the testing of the purity of filtered water supplied under Chapter XVII;
- (7) providing for the maintenance of a map of the water-supply system and facilitating the inspection of the same by ratepayers;
- (8) regulating—
  - (i) the construction and maintenance of water-pipes, taps and fittings, and
  - (ii) all matters and things connected with the supply and use of water, the use, protection and control of meters, hydrants and other fittings, and generally the control of the water-supply and the administration of Chapter XVII;
- (9) specifying the manner in which house-drains and privies are to be connected with the municipal drains;

*(Part VII.—Chapter XXXV.—By-laws and rules.—  
Sec. 478.)*

- (10) prescribing the procedure to be followed by owners and occupiers of premises in connecting house-drains and privies with the municipal drains;
- (11) regulating the construction, maintenance, control and cleansing of drains, ventilation-shafts or pipes, cesspools, house-gullies, privies, urinals, public bathing and washing places and drainage works of every description, whether belonging to the Corporation or not;
- (12) providing for the maintenance of a map of the sewerage system, and facilitating the inspection of the same by ratepayers;
- (13) prescribing the qualifications to be required from, and regulating the appointment, suspension, and dismissal of, licensed plumbers;
- (14) for the alteration of doors, gates, bars and windows opening outwards on a public street;
- (15) for the provision, maintenance, and lighting of hoardings or fences in public streets when building or any other work is carried on;
- (16) regulating the making of holes or excavations of any kind in a public street;
- (17) prohibiting or regulating the placing of obstructions, projections or encroachments, or the depositing of materials or goods, in a public street or in or over any drain or aqueduct in a public street or on any land vested in the Corporation;
- (18) regulating the posting or painting of advertisements in or adjacent to or visible from public streets or other public places;
- (19) for the provision and maintenance of gutters and pipes for carrying and discharging water from buildings in a public street;
- (20) regulating the construction of approach roads crossing the footpath of a public street;
- (21) regulating the construction of verandahs and other structures in streets;
- (22) for altering the position of pipes and appliances laid in streets;
- (23) regulating all matters relating to the fittings, width and construction of streets;
- (24) regulating the use of land as sites for the erection of buildings;
- (25) regulating the erection of new buildings;

of 1923.]

*(Part VII.—Chapter XXXV.—By-laws and rules.—  
Sec. 478.)*

- (26) regulating the making of alterations in, and additions to, buildings;
- (27) regulating the erection and use of buildings for a temporary purpose;
- (28) providing for the protection of lamps, lights, gas-pipes, electric wires and all other appurtenances necessary for the lighting of public streets and municipal markets and buildings; and regulating the manner in which gas-pipes or electric wires shall be laid and existing gas-pipes or electric wires altered in such streets;
- (29) providing for and regulating the collection, removal and disposal of all offensive matter and sewage accumulating in Calcutta, and the efficient daily cleansing and scavenging of all streets and premises;
- (30) for the regulation and control of public bathing and washing places and places constructed under section 377, the management, equipment and maintenance of public swimming baths, the imposition of fees for the use of such baths and the control of persons resorting to such washing places and baths;
- (31) for the construction, management and maintenance of public wash-houses, for the regulation and control of such public wash-houses and other places for the use of washermen in the exercise of their calling, for the imposition of fees for the use of such wash-houses or places, for the control of persons carrying on business therein or resorting thereto, and for the prohibition of the use of unauthorised places for such purposes;
- (32) prohibiting the fouling of any tank, reservoir, stream, well or ditch in Calcutta or of any source from which the public water-supply is drawn;
- (33) for preventing the straying of any animal and regulating the keeping, feeding and destruction of any animals, and the disposal of its carcass, and prescribing the fees payable to the Corporation for such disposal;
- (34) specifying the manner in which stables, cattle-sheds and cow-houses are to be constructed, altered, paved, repaired, maintained and inspected, and the means whereby they are to be connected with the municipal drains;



*Part VII.—Chapter XXXV.—By-laws and rules.—*  
*Sec. 478.)*

- (35) (a) providing for the inspection, keeping and removal of milch-cattle, and prescribing and regulating the ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairyman or milk-seller; and
- (b) for declaring areas in which no person shall keep milch-cattle for the purpose of supplying milk for sale, subject to power being given to the Corporation to give such compensation as they think fit in respect of any cattle-shed constructed in accordance with the plan sanctioned by the Corporation within two years of the publication of a by-law under this sub-clause, provided that such structure is removed within the time fixed by the by-law;
- (36) for enforcing the cleanliness of milk-stores and milk-shops and milk-vessels used for containing milk;
- (37) requiring notice to be given whenever any milch-animal is affected with any contagious disease, and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination;
- (38) for the regulation of lodging-houses;
- (39) regulating the removal and disposal of rank or noxious vegetation;
- (40) for the inspection, supervision, regulation, and control of eating-houses and places where food for human consumption is prepared or kept for sale;
- (41) for determining what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (1) of section 384, to be necessary for each occupant of a building or room;
- (42) for the regulation, inspection by day or by night, supervision and control of all factories, bakehouses, workshops, work-places and premises used for any of the purposes referred to or mentioned in sections 385 and 386, and of all trades and manufactures

*(Part VII.—Chapter XXXV.—By-laws and rules.—  
Sec. 478.)*

carried on therein, and for the cleanliness or ventilation of the same, or the health or safety of the persons employed therein;

- (43) regulating the inspection, supervision and control of theatres, circuses and other places of public resort, recreation or amusement, and prescribing the terms and conditions subject to which licenses may be granted for keeping open such places;
- (44) for securing the efficient inspection of markets, slaughter-houses and places set apart under proviso (iii) to sub-section (I) of section 396;
- (45) regulating the management of, and the conduct of business in, markets;
- (46) regulating the use of any municipal market, municipal slaughter-house, municipal stock-yard, or any part thereof, or any place set apart under proviso (iii) to sub-section (I) of section 396;
- (47) providing for a sufficient supply of water to or in, and for the proper cleansing, general control and regulation of the sanitary condition of, markets, slaughter-houses, stock-yards and places set apart under proviso (iii) to sub-section (I) of section 396, and preventing the exercise of cruelty and the occurrence of nuisances or obstruction therein;
- (48) for preventing persons suffering from any loathsome disease from keeping stalls in, or being employed in preparing or selling articles of food in, any market or from entering any market or touching any article brought there-to for sale, and for authorizing the expulsion of such persons from any market;
- (49) for preventing persons suffering from any infectious or contagious disease living in places where food or drugs are sold, stored or prepared, and for disinfecting the place where any such case has occurred, and generally for the restraint of infection in such places;
- (50) for preventing the use in any market of false or incorrect weights, scales or measures;
- (51) for posting up a price-current in any market;

Part VII.—Chapter XXXV.—By-laws and rules.—  
(Sec. 478.)

- (52) for the control and supervision of butchers carrying on business in Calcutta or at any municipal slaughter-house without Calcutta;
- (53) for securing the efficient inspection and sanitary regulation of shops in which articles of food or drugs are kept or sold and the provision therein of suitable receptacles or vessels for keeping such food or drugs and for enforcing the proper maintenance and cleanliness of such receptacles and vessels;
- (54) prescribing the standard of water to be used in the manufacture or preparation of soda water, lemonade, lithia water or other artificially aerated water or other mineral water or cordials or *sherbet* or other similar beverages or ice-creams or ice;
- (55) prescribing the forms or kinds of label to be attached to articles of food or drugs, or a mixture thereof, or to packages containing the same, and requiring or prohibiting the use in the inscription on the label so attached of such particulars, directions, statements, information or words as are specified;
- (56) prescribing the forms or kinds of label to be attached to receptacles containing disinfectants, germicides, antiseptics or preservatives for sale, and requiring or prohibiting the inscriptions on the label so attached of such particulars, directions, statements, information or words as are specified;
- (57) requiring packages in which any article of food is sold to be marked as prescribed with the date on which it was packed;
- (58) prohibiting the publication, use or exhibition in any manner whatsoever of any printed or pictorial matter with respect to articles of food or drugs which is false or misleading or likely to mislead;
- (59) requiring the destruction or denaturation of any article of food that has become deteriorated or impoverished or which is injurious to health;
- (60) securing the wholesomeness, cleanliness, and freedom from contamination and adulteration of any article of food or drug

(Part VII.—Chapter XXXV.—By-laws and rules—  
Sec. 479.)

hawked about for sale, and the cleanliness of receptacles used for the purpose;

(61) prescribing and regulating the functions and duties of registrars and sub-registrars of births and deaths and of keepers of burial and burning grounds and other places for the disposal of the dead, and for regulating and ensuring the correct and prompt registration of all births and deaths;

(62) regulating the speedy disposal of corpses;

(63) regulating the carrying of corpses along streets;

(64) regulating the removal of corpses or parts of corpses which have been kept or used for purposes of dissection;

(65) regulating the digging and making of graves and vaults;

(66) regulating the re-opening of graves and vaults for purposes of fresh interments;

(67) regulating cremation;

(68) generally, for regulating the disposal of the dead, the inspection of all places for the disposal of the dead, and the maintenance of all such places in good order and in a safe and sanitary condition;

(69) regulating and facilitating the taking of a census of the population of Calcutta, and securing accurate returns thereof, and prescribing the duties of the Superintendent referred to in section 464;

(70) for securing the registration of marriages for statistical purposes; and

(71) regulating the printing and sale of by-laws and rules made under this Act, and providing for the exhibition thereof in suitable places.

**479.** (1) There shall be annexed to by-laws made under clauses (9), (11) or (34) of section 478, type-  
plans of all constructions referred to in them and the said plans shall be open to the inspection of any applicant at the municipal office, at all reasonable times.

Provisions as to the application of certain by-laws.

(Part VII.—Chapter XXXV.—By-laws and rules.—  
Secs. 480, 481.)

478

(b) of sub-section (2) of section 479, for the words and figures "Factories Act, 1911," substitute the words and figures "the measure of 1934".  
ed by Bengal Act XVI of 1946, section 2 and the First Fac-

Ben.  
III o  
1879.  
XII.  
1911

[No. 41, dated the 22nd July, 1947.]

✓ **480.** In making a by-law under section 478, the Corporation may provide that a breach of it shall be punishable—

- (a) with fine which may extend to fifty rupees and in the case of a continuing breach, with fine which may extend to ten rupees for every day during which the breach continues after conviction for the first breach, or
- (b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of written notice from the Corporation to discontinue the breach.

**481.** The power to make by-laws under this Act is subject to the condition of the by-laws being made after previous publication, and to the following further conditions, namely,—

- (a) a draft of the by-laws shall be published in the <sup>2</sup>[Official Gazette] and in local newspapers;
- (b) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication or such longer period as the Corporation may appoint;
- (c) for not less than one month during such period, a printed copy of such draft shall be kept at the municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge; and
- (d) printed copies of such draft shall be obtainable by any person requiring the same, on payment of such fee, not exceeding two annas for each copy, as may be prescribed by the Corporation.

<sup>1</sup>Repealed and re-enacted by the Factories Act, 1934 (XXV of 1934), and these references should now be construed as references to that Act.

<sup>2</sup>See footnote 1 on p. 329, ante.

of 1923.]

(Part VII.—Chapter XXXV.—By-laws and rules.—  
Secs. 482-484.)

**482.** (1) No by-law made by the Corporation under this Act shall have any validity unless and until it is sanctioned by the <sup>1</sup>[Provincial Government].

By-laws to be subject to sanction of Provincial Government.

(2) Before sanctioning any such by-law, the <sup>1</sup>[Provincial Government] may modify it.

<sup>2</sup>(3) The powers conferred by this section on the Provincial Government shall, in relation to any by-law made under clause (69) of section 478, be powers of the

**378—**  
at sub-sections (2) and (3) of section 483 and insert the following note:—

inserted by Ben. Act XI of 1939, section 10.)

o. 1, dated the 15th September, 1939.]

power to Provincial Government to make rules for amendment of certain schedules.

(2) Notwithstanding anything contained in sub-section (1) the Corporation in pursuance of a resolution passed at a meeting, may from time to time, subject to the approval of the <sup>1</sup>[Provincial Government], divide the Garden Reach constituency in Schedule III into two or more constituencies for the purposes of the election of Councillors and allocate to each such constituency such number of Councillors as to them may seem fit, but not so as to alter in respect of the area included in the Garden Reach Municipality before the commencement of this Act the total number of Councillors, or the number of seats as distributed between non-Muhammadan and Muhammadan Councillors, as fixed by Schedule III.

(3) The Corporation may also amend Schedule VII so as to give effect to the division referred to in sub-section (2).

(4) All references in this Act to any schedule which may be amended under this section shall be construed as references to such schedule as for the time being so amended.

**484.** (1) The power to make rules under any section (other than section 447) of this Act is subject to the condition of the rules being made after previous publication.

Conditions precedent to the making of rules.

(2) The power of the <sup>1</sup>[Provincial Government] to make rules under section 25, sub-section (2), section 30,

<sup>1</sup>See foot-note 1 on p. 331, ante.

<sup>2</sup>Sub-section (3) was inserted by the Government of India, (Adaptation of Indian Laws) Supplementary Order, 1937.

(*Part VII.—Chapter XXXI.—By-laws and rules.—*  
*Secs. 485-487.*)

sub-sections (1) and (2), section 422, or section 483, sub-section (1), is also subject to the following further conditions, namely,—

- (a) a draft of the rules shall be published in the <sup>1</sup>[*Official Gazette*] and forwarded to the Corporation for their opinion;
- (b) such draft shall not be further proceeded with until six weeks after such publication or until such later date as the <sup>2</sup>[*Provincial Government*] may appoint.

Certain rules to be subject to sanction.

**485.** (1) No rule made under section 56, section 71, sub-section (9), or section 75, sub-section (4), shall have any validity unless and until it is sanctioned by the <sup>2</sup>[*Provincial Government*].

(2) Before sanctioning any such rule, the <sup>2</sup>[*Provincial Government*] may modify it.

Publication of by-laws and rule in *Gazette*, and effect of such publication.

**486.** All by-laws and rules made and (where sanction is required) duly sanctioned under this Act shall be published in the <sup>1</sup>[*Official Gazette*], and shall thereupon have effect as if enacted in this Act.

Power to *Provincial Government* to cancel by-laws and rules.

**487.** (1) If the <sup>2</sup>[*Provincial Government*] are at any time of opinion that any by-law or rule made under this Act by the Corporation should be cancelled, either wholly or in part, they shall cause the reasons for such opinion to be communicated to the Corporation, and shall prescribe a reasonable period within which the Corporation may make any representation with regard thereto which they may think fit.

(2) After receipt and consideration of any such representation, or, if in the meantime no such representation is received, after the expiry of the prescribed period, the <sup>2</sup>[*Provincial Government*] may at any time, by notification in the <sup>1</sup>[*Official Gazette*], cancel such by-law or rule, either wholly or in part:

Provided that no by-law or rule shall be cancelled in part only if, within the period aforesaid, the Corporation have objected to a partial cancellation thereof.

(3) The cancellation of a by-law or rule under sub-section (2) shall take effect from such date as the <sup>2</sup>[*Provincial Government*] may in the said notification direct, or, if no such date is specified, then from the

<sup>1</sup>See foot-note 1 on p. 329, *ante*.

<sup>2</sup>See foot-note 1 on p. 331, *ante*.

of 1923.]

(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

date of the publication of the said notification in the <sup>1</sup>[*Official Gazette*], except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in local newspapers.

## PART VIII.

### CHAPTER XXXVI.

#### PENALTIES.

488. (1) Whoever commits any offence by—

Certain offences punishable with fine.

- (a) contravening any provision of any of the sections, sub-sections, clauses of sections, provisos or rules of this Act mentioned in the first column of the following table, or
- (b) contravening any provision of any rule made under any of the said sections, sub-sections, clauses, or provisos, or
- (c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisos or rules,

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

(2) Whoever, after having been convicted of any offence referred to in clauses (a), (b) or (c) of sub-section (1), continues to commit such offence shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in this behalf in the fourth column of the said table.

*Explanation.*—The entries in the second column of the following table, headed “subject,” are not intended as definitions of the offences prescribed in the provisions mentioned in the first column, or even as abstracts of those provisions, but are inserted merely as references to the subject thereof :—

<sup>1</sup>See foot-note 1 on p. 329, ante.



## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 121, sub-section (2).	Requisition by auditors to produce documents, to appear in person, or to make and sign declaration, to answer question or to submit statement.	One hundred rupees.	Fifty rupees.
Section 136, sub-sections (1) and (2).	Requisition for returns of measurements and rent or annual value of land or building.	Two hundred rupees.	
Section 145 ..	Obligation to give notice of transfer of title in land or building.	Twenty-five rupees	Five rupees.
Section 155 ..	Obligation to give notice of re-occupation of unoccupied land or building.	Twenty-five rupees	Five rupees.
Section 167, sub-sections (1) and (2).	Obligation to forward statement of carriages and animals liable to taxation.	Twenty rupees.	
Section 168 ..	Requisition on occupier to forward statement of carriages and animals liable to taxation, and names and addresses of persons owning or keeping same.	Twenty rupees.	
Section 171 ..	Requisition on livery stable-keeper to produce books and accounts for inspection.	Fifty rupees ..	Ten rupees.
Section 173, sub-sections (3) and (4).	Obligation to forward list of dogs liable to taxation.	Ten rupees.	
Section 178 ..	Requisition on occupier to forward list of persons carrying on profession, trade or calling in his premises.	Fifty rupees ..	Ten rupees.
Section 181, sub-section (2).	Prohibition of introduction of petroleum into Calcutta for storage.	One thousand rupees.	
Section 183, sub-section (3).	Keeping or possessing cart not duly registered.	Twice the amount payable for registration, exclusive of the amount so payable.	
Section 183, sub-section (4).	Failing to affix registration number to cart.	Five rupees.	
Section 187, sub-section (1).	Driving cart without registration ticket.	Twenty-five rupees	Five rupees.

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*(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)*

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 187, sub-section (3).	Use of false registration ticket or a ticket granted to another cartman.	Twenty-five rupees	Five rupees.
Section 220, sub-section (2).	Improper use of filtered water supplied for domestic purposes.	Ten rupees	Five rupees.
Section 221, sub-section (3).	Use of unfiltered water for domestic purposes.	Five rupees.	
Section 228 ..	Requisition on owner to obtain adequate supply of water from nearest main for his building.	Twenty-five rupees	Five rupees.
Section 238, sub-section (4).	Failure to give notice of intention to occupy or vacate premises.	Thirty rupees.	
Section 243, sub-section (2).	Unauthorizedly taking water for use without Calcutta.	Fifty rupees.	
Section 246 ..	Requisition to fill up well ..	Twenty-five rupees	Five rupees.
Section 253, sub-section (1).	Constructing private street, wall or other structure over municipal drain.	One hundred rupees.	Ten rupees.
Section 257, sub-section (1).	Unlawfully connecting house-drain with municipal drain.	One hundred rupees.	Ten rupees.
Section 258 ..	Requisition to connect one house-drain with another in private street.	Twenty-five rupees	Five rupees.
Section 260 ..	Requisition on owner of premises to make house-drain and provide appliances or fittings or to remove house-drain, etc.	Fifty rupees ..	Five rupees.
Section 261 ..	Requisition on owner of premises to make house-drain communicating with nearest municipal drain or closed cesspool.	Fifty rupees ..	Five rupees.
Section 262 ..	Direction to owner of premises as to closing or limiting the use of house-drain.	Fifty rupees ..	Five rupees.
Section 263, sub-section (4).	Requisition to construct house-drain	Fifty rupees ..	Five rupees.
Section 264 ..	Requisition on owner of courtyard, alley or passage to pave, repair and raise level of same.	Twenty-five rupees	Five rupees.

*The Calcutta Municipal Act, 1923.*

[*Sec. Act 193*]

*(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)*

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 265, sub-section (2).	Requisition on owner of land to construct new drain for benefit of occupants of hut ; and failure to maintain, etc., such drain.	Fifty rupees ..	Five rupees.
Section 266 ..	Construction, maintenance and regulation of drains.	One hundred rupees.	Twenty rupees.
Section 268, sub-section (2).	Keeping a public privy or urinal without license or suffering a licensed public privy or urinal to be in a filthy or noxious state.	One hundred rupees.	Fifty rupees.
Section 269 ..	Provision of privy and urinal accommodation for building.	Fifty rupees.	
Section 270, sub-section (1).	Provision of privy and urinal and bathing or washing place for new building for twenty labourers.	Fifty rupees.	
Section 270, sub-section (2).	Requisition on owner of premises to provide privy, urinal and other accommodation for twenty labourers.	Fifty rupees ..	Five rupees.
Section 271 ..	Requisition on owner of premises to provide or alter privy or urinal accommodation in premises where accommodation is not provided or is insufficient.	Fifty rupees ..	Five rupees.
Section 272 ..	Requisition on owner to provide privies and urinals for premises used by large numbers of people.	Two hundred rupees.	Twenty rupees.
Section 273 ..	Construction, maintenance and regulation of privies, urinals and appurtenances thereof in accordance with rules and by-laws.	Two hundred rupees.	Twenty rupees.
Section 278, sub-section (1).	Requisition on owner of premises to close, remove, renew or take other order with house-drain, ventilation-shaft or pipe, cesspool, house-gully, privy or urinal.	Fifty rupees ..	Five rupees.
Section 279, sub-section (1).	Position of cess-pools ..	Fifty rupees.	
Section 279, sub-section (2).	Requisition to remove or fill up cess-pools.	Fifty rupees ..	Twenty rupees.

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(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 280, sub-section (1).	Construction of house-drain, service privy, etc., within fifty feet of tank, well, etc.	Twenty rupees.	
Section 280, sub-section (2).	Requisition on owner of land to remove receptacle for sewage or offensive matter.	Twenty rupees ..	Five rupees.
Section 284, clause (b).	Requisition on owner of premises to alter, pave, repair, etc., house-drain, cesspool, privy or urinal.	One hundred rupees.	Twenty rupees.
Section 285 ..	Requisition on occupier of premises to carry out work which owner may be required to carry out.	The amount which may be levied as fine on the owner in each case.	The amount which may be levied as daily fine on the owner in each case.
Section 287 ..	Prohibition of certain acts in connection with drainage, etc.	One hundred rupees.	Twenty rupees.
Section 291, sub-section (1).	Prohibition of execution of certain work by persons other than licensed plumbers.	One hundred and fifty rupees.	
Section 291, sub-section (2).	Prohibition of owner or occupier of premises causing or allowing certain work to be executed by persons other than licensed plumbers.	Fifty rupees.	
Section 292, sub-section (2).	Prohibition of licensed plumber demanding or receiving more than prescribed charge.	One hundred rupees.	
Section 294, sub-section (1).	Prohibition of licensed plumber infringing rules, executing work carelessly or negligently, or using bad materials, appliances or fittings.	Fifty rupees.	
Section 299, sub-section (1).	Requisition on owner or occupier of building to remove or alter verandah, etc., or fixture.	One hundred rupees.	Ten rupees.
Section 300, sub-section (1).	Requisition on person to remove wall	Fifty rupees ..	Ten rupees.
Section 303, sub-section (1).	(i) Prohibition of erection of, or addition to, building or wall within street alignment prescribed under section 302.	Two hundred and fifty rupees.	Twenty-five rupees.
	(ii) Requisition to remove building erected or added within street alignment prescribed under section 302.	Fifty rupees ..	Ten rupees.

*(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)*

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 303, sub-section (3).	Prohibition of erection of, or addition to, building between street alignment and building-line prescribed under section 302.	Two hundred rupees.	Twenty rupees.
Section 303, sub-section (4).	Requisition to remove building erected or added between street alignment and building line prescribed under section 302.	Fifty rupees ..	Ten rupees.
Section 309 ..	(i) Prohibition of erection of, or addition to, building or wall within street alignment of a street projected under section 308.	Two hundred and fifty rupees.	Twenty-five rupees.
	(ii) Requisition to remove building erected or added to on site between street alignment and building-line of a street projected under section 308.	Fifty rupees ..	Ten rupees.
Section 315 ..	Unlawfully making or laying out a private street.	Two hundred and fifty rupees.	Twenty-five rupees.
Section 317, sub-section (1).	Requisition on owner of private street or owner or occupier of adjoining land to level, etc., such street.	One hundred rupees.	Ten rupees.
Section 322, sub-section (2).	Prohibition of licensed building surveyor demanding or receiving more than the prescribed fee in the absence of a written contract.	One hundred rupees.	
Section 324, sub-section (6).	Erection of new building in contravention of declaration by the Corporation.	Two hundred rupees.	
Section 325 ..	Prohibition of erection of building without permission or so as to deprive another building of proper means of access.	Two hundred rupees.	Fifty rupees.
Section 326 ..	Requisition upon owner of public building to make certain alterations in it for purposes of sanitation, etc.	Two hundred and fifty rupees.	Fifty rupees.
Section 327 ..	Requisition on owner to provide public building with external doors or to cause such doors to open outwards.	One hundred rupees.	Ten rupees.

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(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 328, sub-section (1).	Change in use of building without special permission.	Two hundred rupees in the case of a masonry building, and fifty rupees in the case of a hut.	Fifty rupees in the case of a masonry building, and ten rupees in the case of a hut.
Section 328, sub-section (2), proviso.	Requisition to close shop ..	Twenty-five rupees.	Five rupees.
Section 334, sub-section (1).	Erecting or using building for temporary purpose without approval of Corporation.	Fifty rupees	Ten rupees.
Section 337, sub-sections (1) and (3).	Requisition on owner of <i>bustee</i> of certain area to carry out improvements.	Two hundred rupees.	Twenty rupees.
Section 340 ..	Erecting or adding to hut in a <i>bustee</i> before preparation of plan by owner and approval of same.	Fifty rupees.	.
Section 341 ..	Erecting or adding to hut in a <i>bustee</i> contrary to standard plan.	Twenty-five rupees.	
Section 342, sub-section (1).	Requisition on owner to remove hut in <i>bustee</i> not in conformity with standard plan.	Twenty-five rupees.	Five rupees.
Section 343, sub-section (1).	Requisition on owner of <i>bustee</i> to construct drains, etc., and to fill up, etc., tanks, wells, etc., in accordance with standard plan.	Two hundred rupees.	Twenty rupees.
Section 346 ..	Requisition on owners to carry out in <i>bustee</i> improvements indicated in Schedule A annexed to report under section 344.	Two hundred rupees.	Twenty rupees.
Section 354, sub-section (2).	Failure to keep open private street in <i>bustee</i> for scavenging and other purposes and for use of tenants.	Fifty rupees ..	Ten rupees.
Section 355 ..	Failure to keep open bathing and privy accommodation in <i>bustee</i> for use of tenants.	Fifty rupees ..	Ten rupees.
Section 356, sub-section (2).	Requisition on owner to maintain in proper order streets, drains, etc., in <i>bustee</i> according to standard plan.	Two hundred rupees.	Twenty rupees.
Section 356, sub-section (2), proviso.	Owner of hut to maintain convenience made by him for his own use.	Twenty-five rupees.	Five rupees.

## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 356, sub-section (3).	Requisition on tenant or tenants of <i>bustee</i> to repair street, passage, drain, etc.	Two hundred rupees.	Twenty rupees.
Section 359, sub-section (5).	Requisition on owner applying to re-erect huts to carry out improvements before re-erecting such huts.	One hundred rupees.	Ten rupees.
Section 360, sub-section (4).	Erection of hut or portion of hut within alignment prescribed for private streets in <i>bustee</i> or other area.	Fifty rupees.	
Section 361, sub-section (1).	Requisition on owners or occupiers to remove huts.	Fifty rupees ..	Ten rupees.
Section 362 ..	Requisition on person erecting masonry building in <i>bustee</i> to leave space of fifteen feet from centre line of street.	One hundred rupees.	Twenty rupees.
Section 363, sub-section (1), clause (i).	Direction to alter or demolish work or structures.	Two hundred and fifty rupees in the case of a masonry building, and twenty-five rupees in the case of a hut.	Twenty-five rupees in the case of a masonry building and five rupees in the case of a hut.
Section 364, sub-section (1), clause (a).	Direction to alter or demolish certain structures.	One hundred rupees.	Fifty rupees.
Section 365, sub-section (1).	Requisition on person carrying on work unlawfully to stop work pending decision of Magistrate.	Two hundred and fifty rupees.	Fifty rupees.
Section 368, sub-section (1).	Constructing private street, building, wall or other structure over municipal gas-pipe.	One hundred rupees.	Twenty rupees.
Section 369	Keeping of animals ..	Fifty rupees ..	Five rupees.
Section 371, sub-section (2).	Provision of land in <i>bustee</i> when required for temporary deposit of rubbish, etc.	Ten rupees ..	Three rupees.
Section 372, sub-section (1).	Direction to collect rubbish and offensive matter and deposit it at or near entrance to premises.	Ten rupees.	
Section 372, sub-section (2).	Direction to collect rubbish and offensive matter and deposit it in public receptacle.	Ten rupees.	

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*(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)*

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 372, sub-section (3).	Direction to collect rubbish and offensive matter and deposit it in lump in street or premises.	Ten rupees.	
Section 373 ..	Direction to collect and remove rubbish and offensive matter accumulating on business premises or on premises in which building work is going on.	Ten rupees.	
Section 377, clause (b).	Prohibition of use by the public for bathing, etc., of any place not constructed therefor.	Ten rupees.	
Section 381, sub-section (3).	Using building declared unfit for human habitation.	Two hundred and fifty rupees.	Fifty rupees.
Section 382, sub-section (2).	Requisition on owner and occupier to demolish, or execute work on, building declared unfit for human habitation.	Two hundred and fifty rupees.	Fifty rupees.
Section 383 ..	Requisition on owner or occupier to furnish statement of occupants, accommodation, etc., of building.	Twenty-five rupees	Five rupees.
Section 384, sub-section (1).	Requisition on owner or occupier to abate overcrowding in building or room.	Twenty-five rupees	Five rupees.
Section 385, sub-section (1).	Establishing, or materially altering, enlarging or extending, factory, etc., without permission.	One thousand rupees.	Two hundred rupees.
Section 386, sub-section (1).	Using premises for certain trades, etc., without license or contrary to terms of license.	Two hundred and fifty rupees.	Fifty rupees.
Section 387, sub-section (5).	Using premises in declared area for any purpose referred to, or mentioned in section 386.	Fifty rupees ..	Five rupees.
Section 388 ..	Failure to comply with direction of Magistrate in regard to use of premises proved to be a nuisance.	Five hundred rupees.	One hundred rupees.
Section 389, sub-section (1).	Fouling water in carrying on trade or manufacture.	One thousand rupees.	Two hundred rupees.
Section 390, sub-section (1).	Using eating-house, etc., without license or contrary to terms of license.	Fifty rupees ..	Five rupees.
Section 391 ..	Keeping open theatre, circus or other place of public amusement without license or contrary to terms of license.	Five hundred rupees.	One hundred rupees.



## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 394, sub-section (1).	Sale in municipal market without license.	Twenty-five rupees.	
Section 395, sub-section (2).	Establishing new private market without sanction of Corporation.	One thousand rupees.	
Section 396, sub-section (1).	Keeping open, etc., private market, permitting any place to be used as private market, or using place as slaughter-house or stock-yard without license, or contrary to terms of license.	Two hundred rupees.	Twenty-five rupees.
Section 398 ..	Using as market a place which Magistrate has directed to be closed.	One hundred rupees.	Twenty rupees.
Section 399 ..	Requisition to pave and drain private market, <i>bazar</i> , private slaughter-house or place set apart for sacrifice of animals, and to alter structures in private market.	Fifty rupees ..	Ten rupees.
Section 400, sub-sections (1) and (2).	Requisition on owner or occupier of private market or <i>bazar</i> to lay out, alter, etc., approaches, roads, passages and ways, and to provide conveniences for, and maintain, the same, and to provide ventilation and lighting of market building.	Fifty rupees ..	Ten rupees.
Section 402, sub-section (2).	Destruction, etc., of by-laws and table of charges posted up in market or slaughter-house.	Ten rupees.	
Section 403, sub-section (2).	Requisition on tenant or agent to remove himself from market or slaughter-house.	Fifty rupees ..	Ten rupees.
Section 405, sub-section (1).	Carrying on trade of butcher or selling animals, meat or fish outside market without license.	One hundred rupees.	Ten rupees.
Section 406, sub-section (1).	Sale, etc., of adulterated or misbranded food or drug.	Five hundred rupees.	
Section 407, sub-section (1).	Sale, etc., of milk, butter, <i>ghee</i> , wheat flour, mustard oil, tea, edible oil, <sup>1</sup> [edible fat] or notified article, which is not of the prescribed quality <sup>2</sup> [or is not labelled or marked in the prescribed manner].	Five hundred rupees.	

<sup>1</sup>These words were substituted for the words "or fat" by s. 7(1) of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).

<sup>2</sup>These words were added by s. 8(1) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

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(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 407, sub-section (2).	Sale, etc., of articles similar to milk, butter, <i>ghee</i> , etc.	Two hundred and fifty rupees.	
Section 408, sub-section (1).	Registration of manufactory of <sup>1</sup> [mustard oil, edible oil or edible fat].	Fifty rupees ..	Five rupees.
Section 408, sub-section (2).	Keeping of register by owner or person in charge of manufactory of <sup>1</sup> [mustard oil, edible oil or edible fat] in regard to substances sent out from the manufactory.	Fifty rupees ..	Five rupees.
Section 410, sub-section (1).	Keeping or permitting to be kept substance intended to be used for adulteration of milk, butter, <i>ghee</i> , wheat flour, mustard oil, tea, edible oil, <sup>2</sup> [edible fat] or notified article.	Two hundred and fifty rupees.	
3*	* * *	*	* .
Section 412, sub-section (1).	Sale of diseased or unwholesome animal or article intended for human food.	Two hundred and fifty rupees.	
Section 413, sub-section (1).	Keeping shop or place for retail sale of drugs without a license.	One hundred rupees.	Twenty rupees.
Section 413, sub-section (2).	Display of license in premises ..	Fifty rupees ..	Ten rupees.
Section 415, sub-section (1).	Compounding, etc., drugs in licensed shop or place without certificate or permission.	Fifty rupees.	
Section 415, sub-section (2).	Employing unauthorized person to compound, etc., drugs in licensed shop or place.	Two hundred rupees.	
Section 419, sub-section (3).	Removing, interfering or tampering with animal, food, drug, etc., seized and left in custody.	Two hundred rupees.	
Section 424, sub-sections (1), (2) and (3).	Refusal to sell or surrender articles of food or drug required for purposes of analysis.	One hundred rupees.	
Section 428 ..	Sale of milk without license ..	One hundred rupees.	Ten rupees.

<sup>1</sup>These words were substituted for the words "mustard oil or edible oils" by s. 7(2) of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).

<sup>2</sup>These words were substituted for the words "or fat" by s. 7(3), *ibid*.

<sup>3</sup>The entries relating to section 411 were omitted by s. 8(2) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section, 430 ..	Requisition to furnish a list of dairies from which the licensees' supply of milk is obtained.	Fifty rupees ..	Five rupees.
Section 431, sub-section (5).	Sale or supply of prohibited milk ..	Two hundred and fifty rupees for a first offence and five hundred rupees for any subsequent offence.	
Section 433 ..	Information of existence of dangerous disease.	One hundred rupees.	
Section 435 ..	Medical practitioners to give information of existence of dangerous disease.	Fifty rupees.	
Section 437, sub-section (2).	Removing or using, for the purpose of drinking or of washing clothes, water which is likely to engender or spread a dangerous disease.	Two hundred rupees.	Twenty rupees.
Section 438, sub-section (2).	Removal to hospital of patient suffering from dangerous disease.	One hundred rupees.	
Section 439, sub-section (1).	Requisition on occupier to vacate building or part thereof to admit of disinfection.	Fifty rupees ..	Ten rupees.
Section 441 ..	Letting infected building ..	Five hundred rupees.	
Section 442, sub-section (2).	Washing infected article at unauthorized place.	One hundred rupees.	
Section 442, sub-section (3).	Direction to disinfect or destroy articles likely to retain infection.	One hundred rupees.	
Section 443, sub-section (1).	Transmitting, etc., infected article	Two hundred rupees.	
Section 444, sub-section (1).	Infected person entering or causing or permitting himself to be carried in, or carrying of dead body in, public conveyance.	Fifty rupees.	
Section 444, sub-section (3).	Carrying infected person or dead body in public conveyance.	Two hundred rupees.	
Section 445, sub-section (1).	Taking public conveyance to appointed place for disinfection.	Two hundred rupees.	
Section 445, sub-section (2).	Intimation of number, and disinfection of infected conveyance.	Two hundred rupees.	

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*(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)*

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Section 445, sub-section (3).	Using infected public conveyance ..	Five hundred rupees.	
Section 446, sub-section (2).	Carrying infected persons or dead bodies in other than special conveyances without sanction of Health Officer.	Two hundred rupees.	
Section 451 ..	Information of birth .. ..	Ten rupees.	
Section 452 ..	Information of death .. ..	Ten rupees.	
Section 453 ..	Notice by medical practitioner to Health Officer stating cause of death.	Fifty rupees.	
Section 455 ..	Burying, burning or otherwise disposing of corpse without certificate.	One hundred rupees.	
Section 457, sub-section (1).	Registration of place for disposal of the dead, and depositing of plan in municipal office.	One hundred rupees.	
Section 459 ..	Opening or using place for disposal of the dead without permission.	Five hundred rupees.	
Section 460, sub-section (2).	Prohibition of use of place of public worship, etc., for disposal of the dead.	Five hundred rupees.	
Section 462, sub-section (1).	Making vault, grave or interment, or disposing of corpse, or exhuming corpse, in certain cases, without permission.	Five hundred rupees.	
Section 466, sub-section (2).	Census enumerators to obey written instructions of Superintendent.	Fifty rupees.	
Section 467, sub-section (1).	Certain persons to act as census enumerators.	Fifty rupees.	
Section 498, sub-section (5).	Production of licence or written permission.	Fifty rupees ..	Ten rupees.
Section 509 ..	Obstructing Executive Officer or other person in entering into or upon premises.	Two hundred rupees for a first offence and five hundred rupees for any subsequent offence.	
Section 527, sub-section (3).	Occupier to afford facilities to owner for complying with Act, rules, by-laws and requisitions.	One hundred rupees.	Twenty rupees.

## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Section 549, sub-section (1), clause (a).	Direction to owner of building to demolish the same.	Five hundred rupees in the case of a masonry building, and fifty rupees in the case of a hut.	One hundred rupees in the case of a masonry building, and ten rupees in the case of a hut.
Schedule XIV, rule 1, sub-rule (2).	Requisition on owner to lay down separate service-pipe from main for supply of water to his premises.	Fifty rupees ..	Ten rupees.
Schedule XIV, rule 2, sub-rule (1).	Obligation on owner to provide separate stop-cocks for controlling supply of unfiltered water.	Fifty rupees ..	Ten rupees.
Schedule XIV, rule 3.	Requisition on owner to fix outer stop-cock so as always to be accessible from nearest street.	Fifty rupees ..	Ten rupees.
Schedule XIV, rule 5, sub-rule (3).	Executing works for supply of water otherwise than in presence of authorized municipal officer.	Fifty rupees.	
Schedule XIV, rule 7, sub-rule (1).	Requisition on owner or occupier of premises to replace or alter fittings for supply of water.	Fifty rupees ..	Five rupees.
Schedule, XIV, rule 12.	Fraud in respect of meter ..	One hundred rupees.	
Schedule XIV, rule 13.	Injuring meter or fittings thereof ..	One hundred rupees.	
Schedule XV, rule 14, sub-rule (2).	Requisition on owner or occupier of premises to repair, flush, cleanse, etc., or take other order with house-drain.	Fifty rupees ..	Five rupees.
Schedule XV, rule 15, sub-rule (2).	Requisition on owner or occupier of premises to repair, flush, cleanse, or empty joint house-drain.	Fifty rupees ..	Five rupees.
Schedule XV, rule 16, sub-rule (1).	Requisition on person laying private underground drain to alter or add to the work.	Fifty rupees ..	Five rupees.
Schedule XV, rule 17.	Unlawfully constructing drain so as to pass beneath a building.	One hundred rupees.	
Schedule XV, rule 21, sub-rule (4).	Attaching service-privy or service-urinal to inhabited portion of any building.	Fifty rupees ..	Five rupees.

of 1923.]

*(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)*

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Schedule XV, rule 22, sub-rule (1).	Placing service-privy or service-urinal on upper floor.	Twenty rupees ..	Five rupees.
Schedule XV, rule 22, sub-rule (2).	Requisition to convert service-privy or service-urinal into a connected-privy or connected-urinal.	Twenty rupees ..	Five rupees.
Schedule XV, rule 23, sub-rule (1).	Requisition to form a passage giving access to a privy or urinal from the street.	Twenty rupees. ..	Five rupees.
Schedule XV, rule 38.	Requisition to alter privy or urinal	Twenty rupees. ..	Five rupees.
Schedule XVI, rule 1, sub-rule (2).	Requisition to trim, prune or cut hedges and trees.	Ten rupees ..	Three rupees.
Schedule XVI, rule 2, sub-rule (1).	Erection of verandah supported by pillars resting on street.	Two hundred and fifty rupees.	Fifty rupees.
Schedule XVI, rule 2, sub-rule (2).	Placing roof on certain verandahs ..	One hundred rupees.	Twenty rupees.
Schedule XVI, rule 2, sub-rule (3).	Putting up verandahs, etc., to project over street without permission.	Two hundred and fifty rupees.	Fifty rupees.
Schedule XVI, rule 2, sub-rule (5).	Requisition on owner or occupier of building to comply with condition subject to which permission was given to put up verandahs, etc., projecting over street.	One hundred rupees.	Twenty rupees.
Schedule XVI, rule 2, sub-rule (6).	Requisition on owner or occupier of building to remove verandahs, etc., projecting over street.	One hundred rupees.	Twenty rupees.
Schedule XVI, rule 3, sub-rule (1).	Erection or maintenance of sky-sign without permission.	Two hundred rupees.	Fifty rupees.
Schedule XVI, rule 4, sub-rule (2).	Unlawfully removing fence or shoring timber or removing or extinguishing light.	Fifty rupees.	
Schedule XVI, rule 5, sub-rule (3).	Unlawfully infringing order prohibiting traffic or removing bar, chain or post in street.	Fifty rupees.	
Schedule XVI, rule 6, sub-rule (2).	Unlawfully destroying, pulling down, etc., name of public street.	Twenty rupees.	
Schedule XVI, rule 7, sub-rule (2).	Unlawfully destroying, pulling down, etc., number of premises or affixing a private number.	Twenty rupees.	
Schedule XVII, rule 5, sub-rule (1).	Requisition to provide staircases ..	Fifty rupees ..	Ten rupees.

## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 488.)

Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
1	2	3	4
Schedule XVII, rule 5, sub-rule (2).	Requisition to provide lift or similar contrivance.	Fifty rupees ..	Ten rupees.
Schedule XVII, rule 7, sub-rule (1).	Construction of external roofs or walls of buildings with inflammable materials.	Fifty rupees ..	Five rupees.
Schedule XVII, rule 7, sub-rule (2).	Requisition on owner of building to remove or alter external roof or wall.	Twenty-five rupees	Five rupees.
Schedule XVII, rule 19.	Sending written notice to Corporation before commencing to erect masonry building.	Twenty-five rupees.	
Schedule XVII, rule 20.	Sending written notice or certificate, or sending untrue certificate, to Corporation after completion of erection of masonry building.	Fifty rupees.	
Schedule XVII, rule 22, sub-rule (1).	Requisition on owner of building to make specified alterations.	Two hundred and fifty rupees in the case of a masonry building, and twenty-five rupees in the case of a hut.	Twenty-five rupees in the case of a masonry building, and five rupees in the case of a hut.
Schedule XVII, rule 55, sub-rule (1) and sub-rule (4).	Employment of licensed building surveyor or other competent person to supervise erection of certain masonry buildings.	One hundred rupees.	Ten rupees.
Schedule XVII, rule 62.	Erection of masonry building without written permission.	Two hundred rupees.	
Schedule XVII, rule 64, sub-rule (1).	Erection of masonry building without fresh permission after lapse of original permission.	One hundred rupees.	
Schedule XVII, rule 88, sub-rule (1).	Erection of hut without written permission.	Fifty rupees.	
Schedule XVII, rule 89.	Erection of hut without fresh permission after lapse of original permission.	Twenty-five rupees.	
Schedule XVIII, rule 2.	Requisition on owner or occupier to lime-wash or otherwise cleanse building.	Twenty-five rupees	Five rupees.
Schedule XVIII, rule 3.	Requisition on owner or person concerned to secure, enclose, cleanse or clear land or building which is untenanted, filthy or a nuisance.	Twenty-five rupees	Five rupees.

of 1923.]

(Part VIII.—Chapter XXXVI.—Penalties.—Sec. 489.)

Sections, sub-sections, clauses, provisos or rules. 1	Subject. 2	Fine which may be imposed. 3	Daily fine which may be imposed. 4
Schedule XVIII, rule 4, sub-rule (1).	Requisition on owner or occupier to take down, repair or secure wall, building or fixture in a ruinous state, etc.	Two hundred and fifty rupees.	One hundred rupees.
Schedule XVIII, rule 4, sub-rule (2).	Requisition on inmate to vacate building in ruinous state, etc.	One hundred rupees.	Fifty rupees.
Schedule XVIII, rule 6, sub-rule (1).	Requisition on owners or occupiers to execute works or take measure with respect to buildings or block of buildings in order to prevent risk of disease.	Five hundred rupees in the case of a masonry building or block of masonry buildings, and one hundred rupees in the case of a hut or block of huts.	One hundred rupees in the case of a masonry building or block of masonry buildings, and twenty rupees in the case of a hut or block of huts.
Schedule XVIII, rule 7, sub-rule (1).	Requisition to cleanse, fill up or de-water well, pool, ditch, tank, pond or marshy ground, or to drain off or remove waste or stagnant water.	Two hundred rupees.	Fifty rupees.
Schedule XVIII, rule 9, sub-rule (3).	Making excavation or digging cesspool, tank, pond, well or pit after prohibition.	One hundred rupees.	
Schedule XVIII, rule 9, sub-rule (4).	Requisition on owner or occupier of land to fill up excavation, cesspool, tank, pond, well or pit unlawfully made.	Fifty rupees.	Five rupees.

✓ 489. Whoever commits any offence by contravening any provision of the section or any of the sub-sections of this Act mentioned in the first column of the following table shall, notwithstanding anything contained in section 488, be punished, for a second or subsequent offence, with fine or imprisonment, or with both, to the extent mentioned in the third column thereof.

Certain offences punishable with increased fine or imprisonment, or both, for a second or subsequent conviction.

*Explanation.*—The entries in the second column of the following table, headed "Subject" are not intended as definitions of the offences



## [Ben. Act III]

## (Part VIII.—Chapter XXXVI.—Penalties.—Sec. 489.)

described in the provisions mentioned in the first column, or even as abstracts of those provisions, but are inserted merely as references to the subject thereof :—

Section or sub-sections.	Subject.	Maximum fine or imprisonment, or both, which may be imposed for a second or subsequent offence.
1	2	3
Section 406, sub-section (1).	Sale, etc., of adulterated or misbranded food or drug.	One thousand rupees, or imprisonment for three months, or both.
Section 407, sub-section (1).	Sale, etc., of milk, butter, <i>ghee</i> , wheat flour, mustard oil, tea, edible oil, <sup>1</sup> [edible fat] or notified article, which is not of the prescribed quality <sup>2</sup> [or is not labelled or marked in the prescribed manner].	One thousand rupees, or imprisonment for three months, or both.
Section 407, sub-section (2).	Sale, etc., of articles similar to milk, butter, <i>ghee</i> , etc.	Five hundred rupees, or imprisonment for three months, or both.
Section 410, sub-section (1).	Keeping or permitting to be kept substance intended to be used for adulteration of milk, butter, <i>ghee</i> , wheat flour, mustard oil, tea, edible oil, <sup>1</sup> [edible fat] or notified article.	Five hundred rupees, or imprisonment for three months, or both.
* *	* * *	* *
Section 412, sub-section (1).	Sale of diseased or unwholesome animal or article intended for human food.	Five hundred rupees, or imprisonment for three months, or both.

<sup>1</sup>These words were substituted for the words " or fat " by s. 8 of the Calcutta Municipal (Amendment) Act, 1931 (Ben. Act VI of 1931).

<sup>2</sup>These words were added by s. 8 (1) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

<sup>3</sup>The entries relating to section 411 were omitted by s. 8 (2) of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

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(Part VIII.—Chapter XXXVI.—Penalties.—  
Secs. 490-492.)

Act XLV  
of 1860.

**490.** Whoever contravenes any provision of any rule made under section 447 shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.

Punishment for  
contravening rule  
made under  
section 447.

**491.** If any municipal officer or servant knowingly acquires, directly or indirectly, by himself or a partner or employer or employee, otherwise than as such officer or servant, any share or interest in any contract or employment with, by, or on behalf of, the Corporation, not being a share or interest such as, under clause (ii) or clause (iv) of proviso (a) to sub-section (1) of section 22, it is permissible for a Councillor or an Alderman to have without being thereby disqualified for being a Councillor or an Alderman, he shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

Punishment for  
acquiring share  
or interest in  
contract, etc.,  
with the  
Corporation.

✓ **492.** (1) If any person—

- (a) owns or is in charge of any carriage or animal liable to any tax imposed under Chapter XI, or
- (b) exercises on or after the first day of July in any year, any profession, trade or calling referred to in Chapter XII, or
- (c) exercises on or after the first day of June or the first day of December in any year any calling referred to in Chapter XIII,

Fine for not  
taking out  
certain  
licenses.

without having the license prescribed by those chapters, respectively, he shall be punished with fine which—

- (i) may extend to three times the amount payable in respect of such license, and
- (ii) shall not ordinarily be less than one-and-a-half times such amount.

(2) Such fine, when levied, shall be taken in full satisfaction of the demand on account of the said license.

(3) The provisions of this section shall apply to any person who, having compounded for the payment of a certain sum under section 170, fails to pay such sum, the amount due for a license being taken as the amount so compounded for.

(Part VIII.—Chapter XXXVI.—Penalties.—  
 Secs. 493, 494. )

**Fine for unlawfully commencing, carrying on or completing building work.**

**493.** If the erection of any new building—

- (a) is commenced without obtaining the written permission of the Corporation, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based, or
- (c) is carried on or completed in breach of any provision contained in this Act or in any rules or by-laws made thereunder, or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

if any alteration of, or addition to, any building or any other work made or done for any purpose in, to or upon any building is commenced, carried on or completed in breach of section 330,

the owner of the building shall be liable to fine which may extend in the case of a masonry building to five hundred rupees and in the case of a hut to fifty rupees, and to further fine which may extend in the case of a masonry building to one hundred rupees and in the case of a hut to ten rupees for each day during which the offence is continued after the first day:

Provided that where an application has been made under section 363 or section 364, no proceedings shall be instituted by the Corporation under this section.

**Fine for putting building to other than declared use.**

**494.** When a new building has been erected, or when any building has been altered or added to after a statement has been made, under rule 53 or rule 81 of Schedule XVII, that it was intended to use the building or any substantial part thereof for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed or cow-house, then any person putting the building or such part thereof to any use other than that so stated shall be liable,—

- (a) in the case of a masonry building, to fine which may extend to two hundred and fifty rupees, and to further fine which may extend to fifty rupees for every day after the first during which he continues such use, and,
- (b) in the case of a hut, to fine which may extend to twenty-five rupees, and to further fine which may extend to five rupees for every day after the first during which he continues such use.

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(Part VIII.—Chapter XXXVI.—Penalties.—Part IX.—  
Chapter XXXVII.—Procedure.—Secs. 495-498.)

✓ **495.** When a new building has been erected, or when any building has been altered or added to under this Act without any statement having been made under rule 53 or rule 81 of Schedule XVII, that it was intended to use the building or any substantial part thereof for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed or cow-house, then any person using the building or such part thereof for any of those purposes shall be liable,—

Fine for using building for carrying on offensive trade without previous declaration.

(a) in the case of a masonry building, to fine which may extend to two hundred and fifty rupees, and to further fine which may extend to fifty rupees for every day after the first during which he continues such use, and,

(b) in case of a hut, to fine which may extend to twenty-five rupees, and to further fine which may extend to five rupees for every day after the first during which he continues such use.

✓ **496.** Any *mehatar* or other servant of the Corporation referred to in section 376 who withdraws from his duties in contravention of that section shall be punished with fine which may extend to fifty rupees, or with simple imprisonment for a term which may extend to three months, or with both, and shall be liable to forfeit any salary which may be due to him.

Penalty on *mehatars*, etc., withdrawing from work without notice.

**497.** Any person who, in contravention of section 555, obstructs or molests any person with whom the Corporation have entered into a contract, or, in contravention of section 556, removes any mark, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

Penalty for obstructing contractor or removing mark.

## PART IX.

### CHAPTER XXXVII.

#### PROCEDURE.

##### *Licenses and written permissions.*

**498.** (1) Every license and written permission granted under this Act or under any rule or by-law made thereunder shall be signed by the Executive Officer and shall specify—

(a) the date of the grant thereof;

Duration, conditions, signature, suspension, revocation and production of licenses and written permissions.

*(Part IX.—Chapter XXXVII.—Procedure.—**Sec. 499. )*

- (b) the purpose and the period (if any) for which it is granted;
- (c) the restrictions and conditions (if any) subject to which it is granted;
- (d) the name of the person to whom it is granted; and
- (e) the tax or fee, if any, paid for the license or written permission.

(2) Except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, for every such license or written permission a fee may be charged at such rate as may from time to time be fixed by the Corporation, and such fee shall be payable by the person to whom the license is granted.

(3) Subject to the provisions of proviso (i) to sub-section (1) of section 396, any license or written permission granted under this Act or under any rule or by-law made thereunder may at any time be suspended or revoked by the authority by whom it was granted, if any of its restrictions or conditions is infringed or evaded by the grantee, or if the grantee is convicted of a breach of any of the provisions of this Act or of any rule or by-law made thereunder in any matter to which such license or permission relates.

(4) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall for all purposes of this Act or of any rule or by-law made thereunder be deemed to be without a license or written permission until such time (whether within the said period or otherwise) as the authority granting the same may see fit to cancel the order suspending or revoking the license or written permission, or until the license or written permission is renewed, as the case may be.

(5) Every grantee of any such license or written permission shall at all reasonable times, while such license or written permission remains in force, produce the same at the request of the Executive Officer.

*Public notices and advertisements.*

Public notices  
how to be made  
known.

✓ **499.** Every public notice given under this Act or under any rule or by-law made thereunder shall be in writing under the signature of the Executive Officer,

and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by

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*(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 500-503.)*

publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Executive Officer may think fit.

**500.** Whenever it is provided by this Act or by any rule or by-law made thereunder that notice shall be given by advertisement in local newspapers, or that a notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers and two vernacular newspapers published in Calcutta.

Newspapers in which advertisements or notices to be published.

*Evidence.*

**501.** Whenever under this Act or under any rule or by-law made thereunder the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

Proof of consent, etc., of Corporation or municipal officer.

- (a) the Corporation, or
- (b) any municipal officer,

as the case may be, a written document signed in case (a) by the Secretary to the Corporation, and in case (b) by the said municipal officer, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

*Signature and service of notices, etc.*

**502.** (1) Every license, written permission, notice, bill, summons or other documents which is required by this Act or by any rule or by-law made thereunder to bear the signature of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of such municipal officer stamped thereupon.

Signature on notices, etc., may be stamped.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund under section 83.

**503.** All notices, bills, summonses and other documents required by this Act or by any rule or by-law made thereunder to be served upon, or issued to, any person, shall be so served or issued by municipal officers or servants or by other persons authorized by the Executive Officer in that behalf.

Notices, etc., by whom to be served or issued.

(Part IX.—Chapter XXVII.—Procedure.—  
Secs. 504, 505.)

Service how to  
be effected on  
owner or occupier  
of premises.

✓ **504.** When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person as owner or occupier of any land or building, it shall not be necessary to name the owner or occupier in the document, and the service or issue thereof shall be effected—

(a) by giving or tendering such document to the owner or occupier:

Provided that if there is more than one owner or occupier and it is not in the opinion of the Corporation practicable to serve the document on every one of them, the Corporation may serve the document on any one or more of them as they think fit;

(b) if the owner or occupier is not found, by giving or tendering such document or by sending it by registered post to any adult male member of the family, or to a servant in the employ, of the owner or occupier or of any one of the owners or occupiers; or,

(c) if none of the means mentioned in clause (a) or clause (b) be available, by causing a notice on yellow paper, in the form prescribed in Schedule XXIII, or in a form to the like effect, setting forth the substance of such document, to be affixed on some conspicuous part of the land or building to which the document relates.

Service how to  
be effected  
otherwise than  
on owner or  
occupier of  
premises.

**505.** When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person otherwise than as owner or occupier of any land or building, such service or issue shall be effected—

(a) by giving or tendering such document to such person; or,

(b) if such person is not found, by leaving such document at his last known place of abode or business in Calcutta, or by giving or tendering the same or by sending it by registered post to any adult male member of his family or servant in his employ; or,

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(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 506, 507. )

- (c) if such person does not reside in Calcutta and his address elsewhere is known to the Executive Officer, by forwarding such document to him by registered post under cover bearing the said address; or
- (d) if none of the means referred to in clauses (a), (b) or (c) be available, by causing a notice on yellow paper in a form prescribed in Schedule XXIII, or in a form to the like effect, setting forth the substance of such document, to be affixed on some conspicuous part of the land or building (if any) to which the document relates.

**506.** Nothing in sections 503, 504 and 505 shall apply to any summons issued under this Act by a Magistrate.

Sections 503 to 505 not to apply to Magistrate's summons.

*Powers of entry.*

**507.** (1) The Executive Officer may enter into or upon any premises, with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation or inquiry, or execute any work which is authorized by this Act or by any rule or by-law made thereunder, or which, in his opinion, it is necessary for any of the purposes or in pursuance of any of the provisions of this Act or of any such rule or by-law, to make or execute :

Power to Executive Officer to enter premises to inspect, survey, etc., and to use force in certain cases.

Provided as follows:—

- (a) except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;
- (c) notwithstanding any power to enter any premises conferred upon the Executive Officer by this Act or by any rule or by-law made thereunder, sufficient notice of such entry shall in every instance be given to enable the inmates of any apartment appropriated to



*(Part IX.—Chapter XXXVII.—Procedure.—  
Sec. 508. )*

females to withdraw to some part of the premises where their privacy need not be disturbed;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

(2) The Executive Officer shall not use any force for the purpose of effecting any entry under sub-section (1), unless—

(i) such entry cannot otherwise be effected, and

(ii) there is reason to believe that an offence is being, or has been, committed against any provision of this Act or any rule or by-law made thereunder.

(3) Except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1), or by the use of any necessary force under sub-section (2).

Power to  
Executive  
Officer to enter  
on lands  
adjacent to  
works.

**508.** (1) The Executive Officer may enter upon any land adjoining or within one hundred yards of any works authorized by this Act or by any rule or by-law made thereunder for the purpose of depositing upon such land any soil, gravel, sand, lime, bricks, stone or other materials, or of obtaining access to such works, or for any other purpose connected with the carrying on of such works.

(2) The Executive Officer shall, before entering upon any land under sub-section (1), give the owner and occupier (if any) three days' previous written notice of his intention to make such entry, and of the purpose thereof, and shall, if so required by the owner or occupier, set apart by sufficient fences so much of the land as may be required for the purposes mentioned in the said sub-section.

(3) The Executive Officer shall not be bound to make any payment, tender or deposit before entering upon any land under sub-section (1), but shall do as little damage as may be, and shall pay compensation to the owner and occupier (if any) of the land for such entry and for any temporary damage that may be done in consequence thereof, and shall also pay compensation to the said owner for any permanent damage resulting therefrom.

*(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 509, 510.)*

(4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the Executive Officer, he may appeal to the Corporation, whose decision shall be final.

**509.** No person shall, in any way, obstruct the Executive Officer in making any entry under section 507 or section 508, or any municipal officer or other person accompanying the Executive Officer at his request or acting under his orders for the purpose of such entry.

Prohibition of obstructing entry under section 507 or 508.

✓ *Enforcement of orders to execute work, etc.*

**510.** (1) When any requisition or order is made under this Act or under any rule or by-law made thereunder, by written notice issued by the Corporation or by any municipal officer empowered under section 12 in this behalf,—

Time for complying with requisition or order, and power to Corporation to enforce requisition or order in default of person directed.

(a) a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect, and

(b) a reasonable period shall be prescribed in such notice within which any written objection thereto shall be received by the Corporation or the municipal officer issuing the notice.

(2) If, in any case not otherwise provided for in this Act or in any rule or by-law made thereunder, such requisition or order or any portion thereof is not complied with within the period prescribed under clause (a) of sub-section (1), the Executive Officer may, subject to the provisions of sections 511, 512, and 513, take such measures, or cause such work to be executed or such things to be done, as may, in his opinion, be necessary for giving due effect to the requisition or order so made;

and, unless it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(3) The Executive Officer may take any measure, execute any work or cause anything to be done under this section whether or not the person who has failed to comply with the requisition or order is liable to punishment, or has been prosecuted or sentenced to any punishment, under this Act or under any rule or by-law made thereunder for such failure.

(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 511-513.)

Submission of  
objections to  
complying with  
notice.

**511.** (1) Any person who is served with a written notice in which a period for receiving objections has been prescribed under clause (b) of sub-section (1) of section 510 may, within the said period, deliver to the Corporation or the municipal officer by whom it was issued a written objection setting forth any reasons which he may desire to urge for the withdrawal or modification of the notice.

(2) If any such objection be delivered before the expiration of the said period, the execution of the work shall be postponed until the Corporation or the municipal officer by whom the notice was issued has passed orders on the objection.

(3) If the objector has stated in his written objection that he wishes to be heard in person, he shall be entitled to be so heard, and the objection shall be considered in his presence, at a time to be fixed by notice issued in this behalf by the Corporation or the municipal officer by whom the notice was issued.

Right of person  
served with  
notice to  
require estimate  
of expenses of  
work.

**512.** (1) Any person on whom a written notice referred to in section 511, sub-section (1), has been served may,—

(a) instead of delivering an objection under section 511, or

(b) at the time of delivering such an objection,

apply, within the period prescribed in clause (b) of sub-section (1) of section 510, to the Corporation or the municipal officer by whom the notice was issued for an estimate of the expenses which would be incurred if the notice were enforced under section 510, sub-section (2); and, on receipt of such an application, the Corporation or the said officer shall supply such estimate.

(2) If the Corporation or the said officer fail to supply such estimate, not more than five rupees shall be charged to the said person for any work executed by the Executive Officer by way of enforcing the said notice under section 510.

Reference of  
objections to  
Corporation.

**513.** (1) If any estimate supplied under section 512 in respect of any work referred to in any written notice exceeds three hundred rupees, no work shall be executed by the Executive Officer by way of enforcing the said notice until the expiration of a fortnight from the date on which the estimate was so supplied.

(2) Within a period of seven days from the said date, the person on whom the notice was served may

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(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 514, 515.)

apply in writing to have his objections to the execution of the work or to the estimated cost of the work determined by the Corporation;

and, if such application be made within the said period, no work shall be executed under section 510, by way of enforcing the said notice, until the Corporation have disposed of such objections.

*Recovery of expenses.*

**514.** Whenever under this Act or under any rule or by-law made thereunder the expenses of any work executed or of any measure taken or thing done by, or under the order of, the Corporation, any Magistrate or any municipal officer empowered under section 12 in this behalf, are payable by any person, the Corporation may, if they think fit, instead of recovering any such expenses in any other manner provided in this Act or in any rule or by-law made thereunder, take an agreement from the said person to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of not less than six *per centum per annum*, within a period of not more than six years.

Power to Corporation to accept agreement for payment of expenses in instalments.

**515.** (1) If any expenses to be recovered have been incurred or are to be incurred in respect of any work mentioned—

Power to Corporation to declare certain expenses to be improvement expenses.

(a) in section 258, section 260, section 263, sub-section (1), section 271, section 278, section 317, section 347, section 399 or section 400, sub-section (1), clause (b), or rule 5 of Schedule XIV, or rule 7 of Schedule XVIII, or

(b) in any rule or by-law made under this Act by which this section is made applicable to such expenses,

the Corporation may, if they think fit, declare such expenses to be improvement expenses.

(2) A register shall be maintained by the Corporation showing all expenses declared to be improvement expenses under this section, and such register shall be open to inspection by any person upon payment of such fee as may from time to time be prescribed by the Corporation.

(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 516-519.)

Improvement  
expenses how  
recoverable and  
by whom  
payable.

**516.** (1) Improvement expenses, as declared under section 515, shall be a charge on the premises in respect of which or for the benefit of which the same have been incurred, and shall be recoverable in instalments of such amounts, and at such intervals, as will suffice to discharge such expenses, together with interest thereon at the rate of not less than six *per centum per annum*, within such period, not exceeding thirty years, as the Corporation may in each case determine.

(2) The said instalments shall be payable by the owner or occupier of the premises on which the expenses are so charged :

Provided that when the occupier pays any such instalment he shall, subject to any agreement to the contrary between the owner and the occupier, be entitled to deduct the amount thereof from the rent payable by him to the owner or to recover the same from the owner in any Court of competent jurisdiction.

Right of owner  
or occupier to  
redeem charge  
for improvement  
expenses.

**517.** At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which the expenses are charged may redeem such charge by paying to the Corporation such part of the said expenses as are still payable.

Execution of  
work by occupier  
in default of  
owner, and  
deduction of  
expenses from  
rent.

**518.** Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or under any rule or by-law made thereunder, the occupier (if any) of such land or building may, with the approval of the Executive Officer, execute the said work, and he shall, subject to any agreement to the contrary between the owner and the occupier, be entitled to recover from the owner the reasonable expenses incurred by him in so doing and may deduct the amount thereof from the rent payable by him to the owner.

Relief to  
receivers, agents  
and trustees.

- ✓ **519.** (1) Whenever any person, by reason of his—
- (a) receiving the rent of immovable property as a receiver, agent or trustee, or
  - (b) being as a receiver, agent or trustee the person who would receive the rent if the property were let to a tenant,

would, under this Act or under any rule or by-law made thereunder, be bound to discharge any obligation imposed thereby on the owner of the property and for

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*(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 520-522.)*

the discharge of which money is required, and such person has not in his hands funds belonging or payable to the owner sufficient for the purpose,

he shall, within a reasonable time from the service upon him of any notice from the Corporation or any municipal officer empowered under section 12 in this behalf requiring him to discharge the said obligation, be bound to apply to a Court of competent jurisdiction for leave to raise the necessary funds or for such other directions in relation thereto as the circumstances of the case may require.

✓(2) Any receiver, agent or trustee who fails to apply to the Court under sub-section (1) shall be deemed to be personally liable to discharge the said obligation.

*Payment of compensation.*

**520.** In any case not otherwise expressly provided for in this Act or in any rule or by-law made thereunder, the Corporation may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act, or by any such rule or by-law, in the Corporation or in any municipal officer or servant.

General power  
to Corporation  
to pay  
compensation.

**521.** (1) Any person who has been convicted of an offence against this Act or against any rule or by-law made thereunder shall, notwithstanding any punishment to which he may have been sentenced for the said offence, be liable to pay such compensation for any damage to any property of the Corporation resulting from the said offence as the Corporation may consider reasonable.

Compensation to  
be paid by  
offenders for  
damage caused  
by them.

(2) In the event of dispute regarding the amount of compensation payable under sub-section (1), such amount shall, on application made to him, be determined by the Magistrate before whom the said person was convicted of the said offence; and, on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

*Recovery of expenses or compensation in case of dispute.*

**522.** (1) If, when the Corporation demand payment of any expenses referred to in section 514, their right to demand the same or the amount of the demand is disputed, the Corporation shall refer the case for the determination of the Court of Small Causes having local

Reference by  
Corporation to  
Small Causes  
Court in certain  
cases.

*(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 523-526.)*

jurisdiction, or if the amount involved exceeds two thousand rupees, to the High Court.

(2) The Corporation shall, pending the decision on any such reference, defer further proceedings for the recovery of the sum claimed by them, and shall, after the decision, proceed to recover only such amount (if any) as is thereby declared to be due.

**Application to  
Small Cause  
Court in other  
cases.**

**523.** (1) Where, in any case not provided for by section 522, the Corporation are, or any municipal officer or servant or any other person is, required by this Act or by any rule or by-law made thereunder to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined by the Court of Small Causes having local jurisdiction, or by the High Court, as the case may be, on application being made to it for this purpose at any time within one year from the date when such expenses or compensation first became claimable.

(2) This section shall not apply to any case which is otherwise provided for in section 421, sub-section (3), section 521, sub-section (2), or section 535, sub-section (2), or in the Land Acquisition Act, 1894, as amended by section 475 of this Act.

**Recovery of  
sums ascertained  
under section  
523 to be due.**

**524.** If the amount of any expenses or compensation determined in accordance with section 523 is not paid on demand by the person liable to pay the same, it shall be recoverable as if the same were due under a decree of the Court of Small Causes.

**Power to sue  
for expenses or  
compensation.**

**525.** Instead of proceeding in any manner hereinbefore prescribed for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the Corporation or any other person claiming the sum due or the balance of the sum due, as the case may be, may recover such amount by suit brought in any Court of competent jurisdiction against the person liable for the same.

*Recovery of certain dues.*

**Recovery of  
certain dues by  
distress and sale.**

**526.** In any case not expressly provided for in this Act or in any rule or by-law made thereunder, any sum due to the Corporation on account of any charge, costs,

(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 527, 528.)

expenses, fees, rates or rent or on any other account under this Act or under any such rule or by-law shall be recoverable by distress and sale of the movable property of the person from whom such sum is due, in the manner provided by Chapter XVI.

*Obstruction of owner by occupier.*

527. (1) The owner of any land or building may, if he is prevented by the occupier thereof from complying with any provision of this Act or of any rule or by-law made thereunder, or with any requisition made under any such provision in respect of such land or building, apply to the Court of Small Causes having local jurisdiction.

Application to Small Cause Court by owner when occupier prevents his complying with Act, etc.

(2) The Court, on receipt of any such application, may make a written order requiring the occupier of the land or building to afford all reasonable facilities to the owner for complying with the said provision or requisition, and may also, if it thinks fit, direct that the costs of such application and order be paid by the occupier.

(3) After eight days from the date of any such order, the said occupier shall afford all such reasonable facilities to the owner for the purpose aforesaid as may be prescribed in the said order; and, in the event of his continued refusal to do so, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

*Proceedings before Court of Small Causes.*

528. (1) Whenever under this Act or under any rule made thereunder, any application, appeal or reference is made to a Court of Small Causes, the said Court may, for the purposes of any inquiry or proceeding in connection with such application, appeal or reference, summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents by the same means and, as far as is possible, in the same manner as is provided by the Presidency Small Cause Courts Act, 1882 or the Provincial Small Cause Courts Act, 1887 as the case may be;

General powers and procedure of Small Cause Courts.

XV of 1882.  
IX of 1887.

and, in all matters relating to any such inquiry or proceeding, the said Court shall be guided generally by



(Part IX.—Chapter XXXVII.—Procedure.—  
Sec. 529.)

the provisions of the said Presidency Small Cause Courts Act, or of the said Provincial Small Cause Courts Act, as the case may be, so far as the same are applicable.

(2) If, any such inquiry or proceeding, the person against whom the complaint or application has been made fails to appear, notwithstanding that he has been duly summoned for this purpose, the said Court may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding, as determined by the said Court, shall be payable by such parties and in such proportions as the said Court may direct, and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the said Court.

Fees in  
proceedings  
before Small  
Cause Courts.

**529.** (1) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], prescribe what fee (if any) shall be paid—

- (a) on any application, appeal or reference made under this Act to a Court of Small Causes; and
- (b) for the issue, in connection with any inquiry or proceeding of any such Court under this Act, of any summons or other process:

Provided that the fees (if any) prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees leviable, for the time being, under the provisions of the Presidency Small Cause Courts Act, 1882 or the Provincial Small Cause Courts Act, 1887 as the case may be, in cases in which the value of the claim or subject-matter is of like amount.

XV of  
1882.  
IX of  
1887.

(2) The <sup>1</sup>[Provincial Government] may, by a like notification, determine by what person any fee prescribed under clause (a) of sub-section (1) shall be payable.

(3) No application, appeal or reference shall be received by any Court of Small Causes until the fee (if any) prescribed therefor under clause (a) of sub-section (1) has been paid:

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>See foot-note 1 on p. 329, *ante*.

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*(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 530-532.)*

Provided that the said Court may, in any case, in which it thinks fit so to do,—

- (i) receive an application, appeal or reference made by or on behalf of a poor person, and
- (ii) issue process on behalf of any such person,

without payment or on part payment of the fees prescribed under this section.

**530.** Whenever any application, appeal or reference made under this Act to a Court of Small Causes, is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said Court to the parties by whom the same have respectively been paid.

Repayment of half-fees on settlement before hearing.

*Proceedings before Magistrates.*

**531.** (1) The <sup>1</sup>[Provincial Government] may appoint one or more Magistrates for the trial of offences against—

Municipal Magistrates.

- (a) this Act, and
- (b) the rules or by-laws made thereunder,

and may prescribe the times and places at which such Magistrate or Magistrates shall sit for the despatch of business.

(2) Such Magistrates shall be called Municipal Magistrates, and shall, if they are stipendiary, be paid such salary, pension and leave-allowances by the <sup>1</sup>[Provincial Government] as may from time to time be fixed by the <sup>1</sup>[Provincial Government].

(3) The Corporation shall, out of the Municipal Fund, pay to the <sup>1</sup>[Provincial Government] the amounts of the salary, pension and leave-allowances as fixed under sub-section (2), together with the cost of the establishments of the said Magistrates, and all other incidental charges in connection with such establishments.

(4) Each such Magistrate shall have jurisdiction over the whole of Calcutta.

**532.** All offences against this Act or against any rule or by-law made thereunder, whether committed in or without Calcutta, shall be cognizable by any Magistrate having jurisdiction in Calcutta; and such Magistrate shall not be deemed to be incapable of

Cognizance of offences.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 533, 534.)

taking cognizance of any such offence or of any offence against any enactment hereby repealed by reason only of his being—

(a) liable to pay any municipal rate or other tax, or

(b) benefited by the Municipal Fund \* \* \*

Power to  
Magistrate to  
hear case  
in absence  
of accused  
when summoned  
to appear.

**533.** If any person summoned to appear before a Magistrate to answer a charge of an offence against this Act or against any rule or by-law made thereunder fails to appear at the time and place mentioned in the summons, the Magistrate may, if—

(a) service of the summons is proved to his satisfaction, and

(b) no sufficient cause is shown for the non-appearance of such person,

hear and determine the case in his absence.

Limitation of  
time for  
prosecution.

**534.** (1) No person shall be liable to punishment for any offence against this Act or against any rule or by-law made thereunder, unless complaint of such offence is made before a Magistrate within three months, or, if the offence be against the provisions of section 136, within six months, next after—

(a) the date of the commission of such offence, or

(b) if such date is not known or the offence is continuous in its nature, the date on which the commission or existence of such offence was first brought to the notice of the Corporation or the Executive Officer.

(2) Failure to take out a license under this Act shall be deemed, for the purposes of sub-section (1), to be a continuing offence until the expiration of the period for which the license is required to be taken out.

(3) When, before the expiration of the period of limitation prescribed by sub-section (1) for a prosecution for failure to comply with a requisition made by the Corporation under sections 343, 344 or 346, a notice under section 359, sub-section (1), has been sent to the Corporation by any person to whom such requisition has been addressed, a fresh period of limitation of three months for such prosecution shall be computed from the expiration of the period of six months or more referred to in section 359, sub-section (3).

<sup>1</sup>The words "to the credit of which any fine imposed by him shall be payable" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1927.

of 1923.)

*(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 535-537.)*

**535.** (1) The Corporation, or any person who resides or owns property in Calcutta, may complain to a Magistrate of the existence of any nuisance.

Complaints concerning nuisances, and procedure thereupon.

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, by written order direct the Corporation—

- (a) to put in force any of the provisions of this Act or of the rules or by-laws made thereunder, or to take such measures as to such Magistrate may seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;
- (b) to recover the expenses of so doing from any person specified in this behalf in such order; and
- (c) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

**536.** When under this Act or under any rule or by-law made thereunder any person is liable, in respect of any unlawful work,—

Power to Magistrate to direct demolition and payment of fine in respect of unlawful work.

- (a) to pay a fine, and
- (b) to be required to demolish the work,

a Magistrate may, in his discretion and subject to the provisions of sections 363, 364 and 493, direct the said person to pay the fine and also to demolish the work.

*Legal proceedings.*

**537.** The Corporation may,—

- (a) institute, defend or withdraw from legal proceedings under this Act or under any rule or by-law made thereunder;
- (b) compound any offence against this Act or against any rule or by-law made thereunder which, under any enactment for the time being in force, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Act or under any rule or by-law made thereunder; and

Power to Corporation to institute, etc., legal proceedings and obtain legal advice.

(Part IX.—Chapter XXXVII.—Procedure.—  
Secs. 538, 539.)

- (d) obtain such legal advice and assistance as they may from time to time think it necessary or expedient to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon the Corporation or any municipal officer or servant.

Notice,  
limitation and  
tender of amends  
in suit against  
the Corporation,  
etc.

**538.** (1) No suit shall be instituted against the Corporation or any municipal officer or servant, or any person acting under the direction of the Corporation or any municipal officer or servant in respect of any act purporting to be done under this Act or under any rule or by-law made thereunder, until the expiration of one month next after written notice has been delivered or left at the municipal office or the residence of such officer, servant or person, stating—

- (a) the cause of action,
- (b) the name and residence of the intending plaintiff, and
- (c) the relief which he claims.

(2) Every such suit shall be commenced within four months next after the accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required by sub-section (1).

(3) If the Corporation or any person to whom any notice is given under sub-section (1), tender sufficient amends to the plaintiffs before the suit is instituted, the suit shall be dismissed.

(4) If no such tender be made, the Corporation or such person may pay into Court such sum of money as they or he think fit, and thereupon such proceeding shall be had as in other cases in which defendants are allowed to pay money into Court.

(5) Nothing in the foregoing sub-sections shall apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

I of 1877.

Indemnity to  
the Corporation,  
etc.

**539.** No suit shall be maintainable against the Corporation or any municipal officer or servant, or any person acting under the direction of the Corporation or any municipal officer or servant, or of a Magistrate, in respect of anything done lawfully and in good faith and with due care and attention under this Act or under any rule or by-law made thereunder.

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Secs. 540-542.)

of 1923.]

PART X.

CHAPTER XXXVIII.

SUPPLEMENTAL PROVISIONS.

*Extension of Act to Howrah and to other municipalities in the neighbourhood of Calcutta.*

**540.** The <sup>1</sup>[Provincial Government] may, by notification published in the <sup>2</sup>[*Official Gazette*] and in such other manner as they may determine, declare their intention to extend to the Municipality of Howrah or to any other municipality in the neighbourhood of Calcutta, or to any part thereof, subject to the modifications and restrictions (if any) specified in such notification, all or any portions of this Act which do not already apply thereto.

Power to Provincial Government to notify intention to extend Act to Howrah or other neighbouring municipality.

**541.** (1) The Commissioners of the Municipality of Howrah or of such other neighbouring municipality as may be specified in a notification published under section 540, or any inhabitants or rate-payers thereof, may, if they object to the declaration contained therein, submit their objection in writing to the <sup>1</sup>[Provincial Government] within such period as may be specified in this behalf in the said notification; and the <sup>1</sup>[Provincial Government] shall take such objections into consideration.

Power to Provincial Government to extend Act after considering objections.

(2) When the said period has expired, and the <sup>1</sup>[Provincial Government] have considered the objections (if any) which have been submitted under subsection (1), the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], extend to the Municipality of Howrah or to the said neighbouring municipality, or to the part thereof specified in the said notification, as the case may be, all or any of the portions of this Act which were specified in that notification, subject to the modifications and restrictions (if any) specified therein or subject to such other modifications or restrictions (if any) as the <sup>1</sup>[Provincial Government] may think fit, or without modification or restriction of any kind.

**542.** If all or any portions of this Act which do not already apply to the Municipality of Howrah or to any other municipality in the neighbourhood of

Effect of extension of Act.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>See foot-note, 1 on p. 329, *ante*.

[Ben. Act III]

## (Part X.—Chapter XXXVIII.—Supplemental provisions.—Sec. 543.)

Calcutta be extended to such municipality, or to any part thereof, under section 541, then—

- (a) the Bengal Municipal Act, <sup>1</sup>[1932], or the corresponding portions of that Act, as the case may be, shall be repealed in the said municipality or part on and from the date of such extension; and,
- (b) except as the <sup>2</sup>[Provincial Government] may otherwise by notification in the <sup>3</sup>[*Official Gazette*] direct, all rules, by-laws, orders, directions and powers made, issued or conferred under the portions of this Act which have been so extended and in force at the date of such extension, shall apply to the said municipality or part, in supersession of all corresponding rules, by-laws, orders, directions and powers made, issued or conferred under the said Bengal Municipal Act, <sup>1</sup>[1932].

Ben. Act  
XV of  
1932.

*Explanation.*—The extension to the Municipality of Howrah or to any other municipality in the neighbourhood of Calcutta, or to any part thereof, of any portion of this Act shall not have the effect of placing the said municipality or part under the authority of the Corporation of Calcutta.

*Inclusion of areas in the neighbourhood of Calcutta within Calcutta.*

Power to  
Provincial  
Government to  
include certain  
areas within  
Calcutta.

**543.** (1) The <sup>2</sup>[Provincial Government] may, by notification published in the <sup>3</sup>[*Official Gazette*] and in such other manner as they may determine, declare their intention to include any specified area in the neighbourhood of Calcutta within the limits of Calcutta, to be administered by the Corporation under this Act.

(2) The local authority having jurisdiction in the said area or any of the inhabitants thereof, may, if they object to such declaration, submit their objection in writing to the <sup>2</sup>[Provincial Government] within such period as may be specified in this behalf in the said notification; and the <sup>2</sup>[Provincial Government] shall take such objections into consideration.

<sup>1</sup>This figure was substituted for the figure "1884" by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

<sup>2</sup>See foot-note 1 on p. 331, ante.

<sup>3</sup>See foot-note 1 on p. 329, ante.

of 1923.]

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Sec. 544).

(3) When the said period has expired and the <sup>1</sup>[Provincial Government] have considered the objections (if any) which have been submitted under subsection (2), and if <sup>2</sup>[both Chambers of the Bengal Legislature] has by a resolution recommended the extension, with or without modifications, the <sup>1</sup>[Provincial Government] may issue the notification including such area or any portion thereof within the limits of Calcutta, to be administered by the Corporation under this Act, and such notification shall thereafter be of full force and effect, and Schedule I to this Act shall be deemed to be amended accordingly.

**544.** (1) When the said area is included within the limits of Calcutta, under section 543, then— Effect of inclusion.

Ben. Act  
XV of  
1932.  
Ben. Act  
III of 1885.  
Ben. Act  
V of 1919.

(a) the Bengal Municipal Act, <sup>3</sup>[1932], or the Bengal Local Self-Government Act of 1885 or the Bengal Village Self-Government Act, 1919, as the case may be, if in force in such area, shall be deemed to be repealed therein; and

(b) except as the <sup>1</sup>[Provincial Government] may otherwise, by notification in the <sup>4</sup>[*Official Gazette*], direct, all rules, by-laws, regulations, orders, directions and powers made, issued or conferred under this Act and in force at the date of inclusion shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under the Bengal Municipal Act, <sup>3</sup>[1932], the Bengal Local Self-Government Act of 1885, or the Bengal Village Self-Government Act, 1919, as the case may be.

(2) The <sup>1</sup>[Provincial Government] may issue such orders as may be necessary to give effect to the inclusion of the said area and any matters incidental or ancillary thereto.

<sup>1</sup>See foot-note 1 on p. 331, *ante*.

<sup>2</sup>These words were substituted for the words "the Bengal Legislative Council" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>See foot-note 1 on p. 420, *ante*.

<sup>4</sup>See foot-note 1 on p. 329, *ante*.



(Part X.—Chapter XXXVIII.—Supplemental provisions.—Secs. 545, 546.)

*Police.*

Co-operation of  
the police.

**545.** (1) The Commissioner of Police and his subordinates shall—

- (a) co-operate with the Corporation for carrying into effect and enforcing the provisions of this Act and for maintaining good order in Calcutta, and
- (b) on the order of a Magistrate, assist the Corporation or any municipal officer or servant in carrying out any order made by a Magistrate under this Act.

(2) It shall be the duty of every police-officer in Calcutta—

- (i) to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any rule or by-law made thereunder, and
- (ii) to assist any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Corporation or in such municipal officer or servant under this Act or under any such rule or by-law.

(3) On the recommendation of the Corporation, any officer or servant of the Corporation, when empowered in that behalf by a general or special order of the Commissioner of Police, may exercise the powers of a police-officer for such of the purposes of this Act as may be specified in such order.

Power to  
police to arrest  
offenders.

**546.** (1) It shall be the duty of every police-officer to arrest any person who commits, in his view, any offence against this Act or against any rule or by-law made thereunder, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name or address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a Magistrate, for any longer time (not exceeding at the most twenty-four hours from the arrest) than is necessary for bringing him before a Magistrate.

41 1923.

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Secs. 547-549.)

(3) On the written application of the Executive Officer, the Deputy Executive Officer, the Chief Engineer, the City Architect or the Health Officer, any police-officer above the rank of constable shall arrest any person who obstructs any municipal officer or servant in the exercise of any of the powers conferred by this Act or by any rule or by-law made thereunder.

*Special provisions as to land and buildings in Hastings.*

**547.** Notwithstanding anything contained in this Act, all land and buildings belonging to the <sup>1</sup>[Crown] in that part of Hastings which is included in Calcutta shall be subject to the control of the General Officer Commanding the Presidency District:

Control by General Officer Commanding the Presidency District over Crown land and buildings.

Provided that this section shall in no way derogate from the powers vested in the Corporation under Chapters XVII and XVIII and any other provision of this Act enabling them in the interests of the public health to require the owner or occupier of any land or building in such part of Hastings to remedy or abate any sanitary defect on or in such land or building.

**548.** The Corporation shall not give or be deemed to have given permission to erect a masonry building in that part of Hastings which is included in Calcutta unless and until the sanction of the <sup>2</sup>[Central Government] has been obtained; and such sanction shall not be applied for unless the plan of the building and the site-plan of the land are approved by the Commissioner of Police.

Sanction of Central Government required to erection of masonry buildings.

**549.** (1) If the erection of any masonry new building in that part of Hastings which is included in Calcutta is, after the commencement of this Act, commenced, carried on or completed without obtaining the sanction of the <sup>2</sup>[Central Government], the Executive Officer shall, if requested by the General Officer Commanding the Presidency District to do so,—

Demolition or alteration of buildings erected without such sanction.

(a) by written notice direct the owner to demolish or alter the building, or

(b) himself cause the building to be demolished or altered at the expense of the owner.

(2) No person shall be entitled to any compensation on account of such demolition or alteration.

<sup>1</sup>This word was substituted for the word "Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "Government of India" by paragraph 4(1), *ibid*.

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Secs. 550-553.)

Provisions of sections 548 and 549 not to bar other provisions of the Act.

**550.** Notwithstanding anything contained in sections 548 and 549, permission to erect a masonry building in that part of Hastings which is included in Calcutta shall not be given so as to contravene, by rendering less strict, any of the provisions of this Act regulating the construction of buildings; and the provisions of section 549 shall be in addition to, and not in derogation of, any other powers of the Corporation under this Act to take proceedings for the demolition of any masonry new building erected in such part of Hastings after the commencement of this Act.

*Water-supply, sewers and gas mains.*

Preparation and maintenance of map in regard to water-supply system.

**551.** (1) The Corporation shall prepare and maintain a map showing the position of water mains and other particulars of the water-supply system generally, sewers, gas mains, telephone and electric cables and such other details as may be prescribed by the <sup>1</sup>[Provincial Government] by rules under this Act.

(2) Such map shall be open for inspection by the public, and copies thereof shall be supplied by the Corporation to the public, at such cost as may from time to time be fixed by the Corporation.

(3) Every public company which lays down underground mains and cables shall contribute towards the cost of preparation and maintenance of the said map, such proportionate amount as may be prescribed by the <sup>1</sup>[Provincial Government] by rules under this Act.

*General provisions.*

Power to authority to require any one or more of a number of things to be done.

**552.** Where a power is expressed as being conferred on any authority to require a person to do a number of things, that authority may from time to time in its discretion require that person to do any one or more of those things.

Who to be deemed owner or occupier, where there are gradations of owners or occupiers.

**553.** Whenever any right is conferred or duty imposed by or under this Act, or by any rule or by-law made thereunder, on the owner or occupier of any premises, and, in consequence of there being gradations of owners or occupiers, doubt arises as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Corporation may, after due inquiry, determine from time to time which of such owners or occupiers shall be deemed to be so entitled or bound:

of 1923.]

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Secs. 554-557.)

Provided that if the name of any one of such owners or occupiers has been entered in the assessment-book in pursuance of any decision given by the Executive Officer under section 144, sub-section (2), such owner or occupier shall be deemed to be so entitled or bound until his name is duly removed from the said assessment-book.

**554.** Every Councillor and Alderman, every municipal officer and servant, [every auditor appointed under section 121], every contractor or agent for the collection of any municipal rate or other tax or fee and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Councillors, Aldermen, municipal officers, etc., to be deemed public servants.

Act  
XLV of  
1920.

**555.** No person shall obstruct or molest any person (not being a person referred to in section 554) with whom the Mayor has entered into a contract on behalf of the Corporation, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue, or in consequence of, this Act or any rule or by-law made thereunder.

Prohibition of obstruction of municipal contractors.

**556.** No person shall remove any mark set up for the purpose of indicating any level, measurement or direction necessary to the execution of works authorized by this Act or by any rule or by-law made thereunder.

Prohibition of removal of mark.

*Construction of references and savings.*

**557.** (1) In every enactment in force at the commencement of this Act, unless a different intention appears,—

Construction of references in other enactments.

- (a) all references to the Chairman of the Corporation of Calcutta shall be construed as references to the Executive Officer,
- (b) all references to the Vice-Chairman of the said Corporation shall be construed as references to the Deputy Executive Officer,
- (c) all references to the Commissioners of the said Corporation shall be construed as references to the Councillors and Aldermen referred to in section 5, and
- (d) all references to, or to any chapter or section of the Calcutta Municipal Act, 1899, shall.

Ben. Act  
III of  
1933.

\*These words were inserted by s. 13 of the Calcutta Municipal (Amendment) Act, 1933 (Ben. Act XI of 1933).

[Ben. Act III]

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Secs. 557A-558.)

so far as is possible, be construed as references to this Act or to its corresponding chapter or section.

(2) The references to the General Committee in section 56, sub-section (1) and section 65, sub-sections (1), (2) and (3) of the Calcutta Improvement Act, 1911, shall be construed as references to the Corporation.

Ben. Act V of 1911.

Savings of certain suits and proceedings.

557A. (1) A suit or legal proceeding instituted, or which might but for the passing of this Act have been instituted, by the General Committee or the Chairman under the Calcutta Municipal Act, 1899, may be continued or instituted by the Corporation as constituted under this Act.

Ben. Act III of 1899.

(2) For the purposes of such suit or legal proceeding and of all matters incidental thereto, the powers and duties of the General Committee and of the Chairman under the Calcutta Municipal Act, 1899, shall, from the commencement of this Act, be deemed to have vested in the Corporation and the Chief Executive Officer respectively; and when any action has been taken in accordance with the provisions of the Calcutta Municipal Act, 1899, such action shall be deemed to have been taken by the corresponding authority under this Act, and the corresponding provisions of this Act shall be deemed to have been complied with.

(3) Save as provided in sub-section (2) the procedure prescribed by this Act shall be followed in all proceedings relating to a contravention of the provisions of the Calcutta Municipal Act, 1899.

(4) Notwithstanding anything contained in this Act or in any other law, a suit or legal proceeding under this section may be instituted at any time within one year from the commencement of the Calcutta Municipal (Amendment) Act, 1926.

Ben. Act V of 1926.

Vesting of the functions of General Committee in the Corporation.

557B. Save as otherwise expressly provided in this Act, the powers and duties of the General Committee under the Calcutta Municipal Act, 1899, shall, from the commencement of this Act, be deemed to have vested in the Corporation in respect of all matters whatsoever which have arisen under the provisions of the Calcutta Municipal Act, 1899.

Saving of prior enactments.

558. Except as in this Act otherwise expressly provided, nothing in this Act shall be deemed to affect the provisions of any other enactment.

Sections 557A and 557B were inserted by s. 2 of the Calcutta Municipal (Amendment) Act, 1926 (Ben. Act V of 1926).

*(Schedule I.—Calcutta.)*

SCHEDULE I.

“CALCUTTA.”

[See section 3, clause (11) and sections 483 and 543.]

“Calcutta” is the area included within the following boundaries except that it does not include:—

- (1) Fort William,
- (2) the Esplanade, or
- (3) that part of Hastings north of the south edge of Clyde Row and Strand Road to the river bank.

*Boundaries.*

A line drawn along the outer edge of Paramanik Ghat Road, Cossipur Road, Kasi Nath Dutt Road, Kali Charan Ghose Road and Ramkrishna Ghose Lane; thence southward along the western edge of the Eastern Bengal Railway to the point where the boundary line meets the New Canal; thence eastward along the southern bank of the New Canal to the point where it meets the Baliaghatta Canal; thence westward along the southern bank of the Baliaghatta Canal to the point where it meets Pagladanga Road, thence along the northern and eastern edge of Pagladanga Road to the point where it meets Chingrighatta Road; thence along the southern edge of Chingrighatta Road to the point where it meets Tangra Road, South; thence along the eastern and southern edge of Tangra Road, South, to the point where it meets Topsia Road, North; thence along the eastern and southern edge of Topsia Road, North, to the point where it meets Hughes Road; thence along the eastern edge of Hughes Road to the point where the Town and Suburban High Level Sewers meet; thence along the southern edge of the new road to the point where it meets Topsia Road, South; thence along the southern edge of Topsia Road, South, to the point where it meets Tiljala Masjidbari Lane; thence along the eastern and southern edge of Tiljala Masjidbari Lane to Tiljala Road, formerly known as Maulvi Ahmad Khan Bahadur's Road; thence westward along a line drawn in continuation of the southern edge of Tiljala Masjidbari Lane to the Eastern Bengal Railway line; thence southward along the western edge of the line of that Railway, and westward along the

*(Schedule I.—Calcutta.)*

northern edge of the Budge-Budge Branch of that Railway, to Russa Road, South; thence southward along the eastern edge of Russa Road, South, to the point where it meets Tollyganj Circular Road; thence along the southern boundary of Tollyganj Circular Road to the point where it meets the southern boundary of the Port Commissioners' land acquired for the purpose of constructing King George's Dock and its connected works, and thence along the southern boundary of the Port Commissioners' land above referred to, as it stands at the commencement of this Act up to the point where it meets Diamond Harbour Road; <sup>1</sup>[thence along the eastern boundary of Diamond Harbour Road to the point where it meets the southern boundary of the Port Commissioners' land above referred to; thence along the southern, western and northern boundary of the said land up to the point where it meets the Circular Garden Reach Road at its junction with New Taratala Diversion Road; thence eastward along the northern edge of Circular Garden Reach Road to the point where it meets the Port Commissioners' land above referred to; thence northward along the western boundary of this land to the point where it meets Garden Reach Road; thence westward along the northern edge of Garden Reach Road to the point where it meets Prince Delwarjah Lane; thence northward along the eastern edge of Prince Delwarjah Lane and the western boundary of the Port Commissioners' land above referred to to the point where it meets the river Hooghly]; thence along the River Hooghly to the western terminus of the outer edge of the Paramanik Ghat Road.

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<sup>1</sup>These words were substituted for the original words by the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932).

of 1923.]

*(Schedule II.—Corrupt practices.)*

SCHEDULE II.

CORRUPT PRACTICES.

[See sections 3 (17), 22 (3), 46 and 47.]

The following shall be deemed to be corrupt practices for the purposes of this Act:—

Part I.

1. A gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing— **Bribery.**

- (a) a person to stand or not to stand as, or to withdraw from being, a candidate, or
- (b) an elector to vote or refrain from voting at an election,

or as a reward to—

- (a) a person for having so stood or not stood or for having withdrawn his candidature, or
- (b) an elector for having voted or refrained from voting.

*Explanation.*—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bona fide* incurred at or for the purposes of any election and duly entered in the return of election expenses prescribed by this Act.

2. (1) Any direct or indirect interference or attempt to interfere on the part of a candidate, or his agent or of any other person with the connivance of the candidate or his agent by any of the means hereafter specified with the right of any person to stand or not to stand or to withdraw from standing as a candidate, or with the free exercise of the franchise of an elector. **Undue influence.**

(2) The means above alluded to are—

- (a) any violence, injury, restraint, or fraud and any threat thereof;



*(Schedule II.—Corrupt practices.)*

- (b) any threat to a person or inducement to a person to believe that he or any person in whom he is interested will become or be rendered an object of divine displeasure or spiritual censure;

but do not include any declaration of public policy or promise of public action.

**Personation.**

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

**Publication of false statements.**

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice such candidate's election.

**Part II.**

**Acts under Part I.**

1. Any act specified in Part I, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

**Personation.**

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election.

**Receipt of gratification.**

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward,—

- (a) by a person to stand or not to stand as, or to withdraw from being, a candidate; or  
(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

*(Schedule II.—Corrupt practices.)*

4. Any payment or promise of payment to any person on account of the conveyance of any elector to or from any place for the purpose of recording his vote: **Payment by conveyance.**

Provided that nothing contained in these rules shall prevent a conveyance being hired by an elector, or by several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

5. The incurring or authorization of expenses by any person other than a candidate or his election agent on account of holding any public meeting or upon any advertisement, circular or publication or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, unless he is authorized in writing so to do by the candidate. **Incurring expense without authority.**

6. The hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public. **Hiring of liquor shops.**

7. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof. **Issue of circulars, etc., without printer's and publisher's name printed thereon.**

~~Pages 432-433~~

For Schedule III substitute the following Schedule:—

**"SCHEDULE III.**

*List of constituencies.*

**Page 432—**

For Schedule III substitute the following Schedule,"  
namely:—

**"SCHEDULE III.**

**List of Constituencies.**

(See sections 8, 20 and 23.)

Name of constituency.	Extent of constituency.	Number of Councillors to be elected.
1	2	3

**A—Special Constituencies.**

Bengal Chamber of Commerce	.. Non-territorial	.. One.
Bengal National Chamber of Commerce	.. Non-territorial	.. One.
Indian Chamber of Commerce	.. Non-territorial	.. One.
Muslim Chamber of Commerce	.. Non-territorial	.. One.
Calcutta Trades Association	.. Non-territorial	.. One.
Marwari Association	.. Non-territorial	.. One.
Calcutta Port Commissioners	.. Non-territorial	.. One.

**B—Labour Constituency.**

Labour	..	..	.. Trade Unions referred to in sub-section (4) of section 20.	Two."
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(Substituted by West Bengal Act I of 1947, section 20.)

[No. 43, dated the 5th June, 1949.]

Manicktala	..	Ward No. 29	..	One.
Belgachia	..	Ward No. 30	..	Two.
Satpukur	..	Ward No. 31	..	Two.
Chandpur	..	Ward No. 32	..	One.

of 1923.]

(Schedule—III.—List of Constituencies.)

Name of constituency.	Extent of constituency.	Number of Councillors to be elected.	Number of seats included in column 3 reserved for Muhammadans.
1	2	3	4
<i>A.—General Constituencies—concl'd.</i>			
Entally ..	Ward No. 19 ..	Two ..	One. ✓
Beniapukur ..	Ward No. 20 ..	Three ..	Two. ✓
Ballyganj ..	Ward No. 21 ..	Two ..	One.
Bhowanipur ..	Ward No. 22 ..	Two.	
*[Kalighat ..	Ward No. 22A ..	One].	
Alipur ..	Ward No. 23 ..	One ..	One. ✓
Ekbalpur ..	Ward No. 24 ..	Two ..	One. ✓
Watganj and Hastings.	Ward No. 25 ..	Two ..	One. ✓
..	..	..	..
Tollyganj ..	Ward No. 27 ..	One.	
Beliaghatta ..	Ward No. 28 ..	Three ..	One. ✓
Maniktala ..	Ward No. 29 ..	Two ..	One. ✓
Belgachia ..	Ward No. 30 ..	Three ..	One. ✓
Satpukur ..	Ward No. 31 ..	Two.	
Cossipur ..	Ward No. 32 ..	Three ..	One. ✓

*B.—Special Constituencies.*

Bengal Chamber of Commerce.	Non-territorial	Six.	
Calcutta Trades Association.	Non-territorial	Four.	
Calcutta Port Commissioners.	Non-territorial	Two.	

<sup>1</sup>The words "Three" and "Two" were substituted for the words "Two" and "One" respectively by s. 3(5) of the Calcutta Municipal (Second Amendment) Act, 1932 (Ben. Act XXIII of 1932).

<sup>2</sup>This word was substituted for the word "Three" by s. 2(1) of the Calcutta Municipal (Amendment) Act, 1932 (Ben. Act XVI of 1932).

<sup>3</sup>These entries were inserted by s. 2(2), *ibid.*

<sup>4</sup>The entries relating to Garden Reach were omitted by the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932).

<sup>5</sup>This word was substituted for the word "Two" by s. 3(6) of the Calcutta Municipal (Second Amendment) Act, 1932 (Ben. Act XXIII of 1932).

<sup>6</sup>This word was inserted by s. 3(6), *ibid.*

*(Schedule IV.—List of Constituencies.)*

**SCHEDULE IV.**

*[List of Constituencies.]*

*Rep. by the Bengal Repealing and Amending Act,  
1938 (Ben. Act I of 1939).*

*(Schedule V.—Return of election expenses.)*

**SCHEDULE V.**

*(See section 34.)*

**RETURN OF ELECTION EXPENSES.**

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money security or equivalent of money was received in respect of expenses incurred on account of, or in connection with, or incidental to, the election, and the amount received from each person, club, society or association separately.

2. Under the head of expenditure, there shall be shown :—

- (a) the personal expenditure of the candidate incurred or paid by him or his election agent, including travelling and all other personal expenses incurred in connection with his candidature;
- (b) the name, and the rate and total amount of the pay, of each person employed as an agent (including the election agent), clerk or messenger;
- (c) the travelling expenses and any other expenses incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers;
- (d) the travelling expenses of persons, acting on behalf of the candidate, whether in receipt of salary or not, incurred in connection with the candidature, and whether paid or incurred by the candidate, his election agent or the person so travelling;
- (e) the cost whether paid or incurred of—
  - (i) printing,
  - (ii) advertising,
  - (iii) stationery,
  - (iv) postage,
  - (v) telegrams,
  - (vi) rooms hired either for public meetings or as committee-rooms, and
  - (vii) conveyances hired for taking electors to the polls;

## (Schedule V.—Return of election expenses.)

(f) any other miscellaneous expenses whether paid or incurred.

NOTE.—(1) All expenses incurred in connection with the candidature, whether paid by the candidate, his election agent, or any other person, or remaining unpaid on the date of the return are to be set out.

(2) For all items of Rs. 5 and over, unless from the nature of the case (e.g., travel by the rail or postage) a receipt is not obtainable, vouchers are to be attached.

(3) All sums paid but for which no receipt is attached are to be set out in detail with dates of payment.

(4) All sums unpaid are to be set out in a separate list.

3. The form of affidavit referred to in section 34 shall be as follow:—

*Affidavit.*

I                    being the appointed election agent for  
   a candidate for election in the  
constituency (or I                    being a candidate for elec-  
tion in the                    constituency), do hereby  
solemnly affirm that the above return of election expen-  
ses is true to the best of my knowledge and belief, and  
that, except the expenses herein set forth, no expenses  
of any nature whatsoever have to my knowledge and  
belief been incurred in, and for the purposes of,——

's candidature .  
my candidature

(Sd.)

*Election agent or candidate.*

Solemnly affirmed before me.

*(Magistrate.)*

of 1923.]

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

SCHEDULE VI.<sup>1</sup>

RULES AS TO LICENSES FOR THE EXERCISE OR CARRYING ON OF PROFESSIONS, TRADES AND CALLINGS.

(See sections 20, 175, 176, 177 and 211.)

1. Every license shall be granted under one or other of the classes mentioned in the second column of the following table, and there shall be paid annually for the same the fee mentioned in that behalf in the third column of that table :—

Classes of licenses and tax on each.

Serial No.	Classes.	Fees.
1	2	3
	Class I.	
1	Company or association or body of individuals, the paid-up capital of which is equivalent to twenty lakhs of rupees or upwards, which exercises or carries on any profession, trade or calling whatsoever.	Five hundred rupees.
	Class II.	
2	Company or association or body of individuals, the paid-up capital of which is equivalent to ten lakhs of rupees or upwards, which exercises or carries on any profession, trade or calling whatsoever but is not included in Class I.	Two hundred and fifty rupees.
	Class III.	
3	Merchant, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier, the rent of whose place of business is valued under Chapter X at Rs. 1,000 per mensem or upwards.	Two hundred rupees.
4	Taxi-cab owner, having twenty or more taxicabs. ....	Ditto.

<sup>1</sup>Sub-section (1) of section 483 authorises alteration of, addition to or cancellation of any part of, or of any rule contained in, any schedule to this Act except Schedule I. This Schedule VI has been amended in accordance with the notifications issued and the rules published under these powers up to the 31st December, 1937.



(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

Serial No.	CLASSES.	Fees.
1	2.	3
	CLASS IV.	
5	Company or association or body of individuals, the paid-up capital of which is equivalent to one lakh of rupees or upwards, which exercises or carries on any profession, trade or calling whatsoever, but is not included in Class I or Class II.	One hundred rupees.
6	Merchant, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer, or carrier, who is not included in Class III and the rent of whose place of business is valued under Chapter X at Rs. 350 <i>per mensem</i> or upwards.	Ditto.
7	Owner or occupier of a cotton, jute, hide or other screw-house or press-house, the rent of whose place of business is valued under Chapter X at Rs. 350 <i>per mensem</i> or upwards.	Ditto.
8	Owner or occupier of a market, bazar or theatre or a place of public entertainment kept up for the purpose of profit, the rent of whose place of business is valued under Chapter X at Rs. 350 <i>per mensem</i> or upwards.	Ditto.
9	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototypier, Ditto ..	Ditto.
X 10	Proprietor of a newspaper, periodical or journal, Ditto ..	Ditto.
11	Hotel-keeper, boarding house-keeper, lodging house-keeper, manufacturer, retail trader or shop-keeper, Ditto ..	Ditto.
✓ 12	Bookmaker or turf accountant, ....	Ditto.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1).

Serial No.	Classes.	Fees.
1	2	3
13	Keeper of a shop for the sale of any liquor or intoxicating drug. ....	One hundred rupees.
14	Taxi-cab owner, having ten or more, but less than twenty taxi-cabs. ..	Ditto.
15	Stevedores .. ....	Ditto.
	Class V.	
16	Company or association of body of individuals the paid-up capital of which is less than one lakh of rupees, which exercises or carries on any profession, trade or calling whatsoever.	Fifty rupees.
17	Consulting and practising physician, practising surgeon, licentiate of medicine or surgery, <i>kabiraj</i> , graduate of the Bengal Veterinary College, midwife, dentist, barrister, attorney, <i>vakil</i> , advocate of the High Court, proctor, notary public, public accountant, average adjuster, statistical reporter, analyst, <i>shroff</i> or <i>baniyan</i> , in respect of whose income income-tax <sup>1</sup> [on an income of not less than Rs. 2,000] is payable.	Ditto.
18	Merchant, banker, whole-sale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier, who is not included in Class III or Class IV.	Ditto.
19	Broker or <i>datal</i> employed in the wholesale transfer or purchase of imports or exports, country produce, silk or other merchandises. ....	Ditto.
20	Commercial traveller .. ....	Ditto.

<sup>1</sup>These words and figure were inserted by s. 2(a) of the Calcutta Municipal (Second Amendment) Act, 1936 (Ben. Act XII of 1936).

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1).

Serial No.	Classes.	Fees.
1	2	3
	Class V— <i>contd.</i>	
21	Dealer in precious stones . . . .	Fifty rupees.
22	Broker or dealer in houses, landed property, Government securities, shares or bills of exchange. . . .	Ditto.
23	Freight broker . . . .	Ditto.
24	Owner or occupier of a market, bazar or theatre, or a place of public entertainment kept up for the purpose of profit, who is not included in Class IV.	Ditto.
25	Owner or occupier of a wholesale tobacco, jute or other depot, whose place of business is valued under Chapter X at Rs. 100 per mensem or upwards.	Ditto.
26	Proprietor of a newspaper, periodical or journal, who is not included in Class IV and the rent of whose place of business is valued under Chapter X at Rs. 100 per mensem or upwards.	Ditto.
27	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototypist, Ditto . .	Ditto.
28	Owner or occupier of a cotton, jute, hide or other screw-house or press-house, Ditto . .	Ditto.
29	Hotel-keeper, boarding house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper, Ditto . .	Ditto.

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(in Part)

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

Serial No.	Classes.	Fees.
1	2	3
	Class V—concl'd.	
30	Order-supplier or house decorator, the rent of whose place of business is valued under Chapter X at Rs. 100 per <i>men-sem</i> or upwards.	Fifty rupees.
31	Taxi-cab owner, having five or more, but less than ten taxi-cabs.	Ditto.
32	Owner of a steam ferry-boat or steam cargo-boat.	Ditto.
33	Pawnbroker or money-lender.	Ditto.
34	Plumber, electric fitter or gas-fitter, the rent of whose place of business is valued under Chapter X at Rs. 100 per <i>men-sem</i> or upwards.	Ditto.
35	Pleader, .. in respect of whose income income-tax <sup>1</sup> [on an income of not less than Rs. 2,000] is payable.	Ditto.
	Class VI.	
36	Consulting and practising physician, practising surgeon, licentiate of medicine or surgery, <i>kabiraj</i> , graduate of the Bengal Veterinary College, midwife, dentist, barrister, attorney, <i>vakil</i> , advocate of the High Court, proctor, notary public, public accountant, average adjuster, statistical reporter, analyst, <i>shroff</i> or <i>banian</i> , <sup>2</sup> [by whom income-tax is not payable on an income of Rs. 2,000 or more.]	Twenty-five rupees.

<sup>1</sup>These words and figure were inserted by s. 2(a) of the Calcutta Municipal (Second Amendment) Act, 1936 (Ben. Act XII of 1936).

<sup>2</sup>These words and figure were substituted for the words "by whom no income-tax is payable" by s. 2(b), *ibid*.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

Serial No.	Classes.	Fees.
1	2	3
	Class VI.— <i>contd.</i>	
37	Insurance agent, broker or canvasser. ....	Twenty-five rupees.
38	Purchaser of goods in Calcutta for transport and sale beyond the limit of Calcutta. ....	Ditto.
39	Brokers in precious stones ....	Ditto.
40	Surveyor (including a licensed building surveyor) or professional measurer. ....	Ditto.
41	Practising apothecary, or practising veterinary surgeon. ....	Ditto.
42	Keeper of a billiard room ....	Ditto.
43	Owner or occupier of a wholesale tobacco, jute or other depot, who is not included in Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
44	Pleader, .. <sup>1</sup> [by whom income-tax is not payable on an income of Rs. 2,000 or more].	Ditto.
45	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototyper, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.

<sup>1</sup>These words and figure were substituted for the words "by whom no income-tax is payable" by s. 2(b) of the Calcutta Municipal (Second Amendment) Act, 1936 (Ben. Act XII of 1936).

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1).

Serial No.	Classes.	Fees.
1	2	3
	Class VI— <i>contd.</i>	
46	Dyer or cleaner, .. the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Twenty-five rupees.
47	Owner or occupier of a cotton, jute, hide, or other screw-house or press-house, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
48	Hotel-keeper, boarding-house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
49	Order-supplier or house-decorator, who is not included in Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
50	Keeper of baths, the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
51	Taxi-cab owner, having less than five taxi-cabs.	Ditto.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1).

Serial No.	Classes.	Fees.
1	2	3
	Class VI—concl'd.	
52	Plumber, electric-fitter or gas-fitter, who is not included in Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per men-sem</i> or upwards.	Twenty-five rupees.
53	Carriage-dealer or horse-dealer, the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per men-sem</i> or upwards.	Ditto.
54	Proprietor of a periodical or journal, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per men-sem</i> or upwards.	Ditto.
55	Private detective .. ..	Ditto.
56	Professional astrologer ..	<sup>1</sup> [Ditto.]
57	<i>Poddar</i> or money-changer, the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per men-sem</i> or upwards.	Ditto.
58	Professional jockey or race-horse trainer. ..	Ditto.

<sup>1</sup>This word was inserted by s. 10 of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—

Rule 1).

Serial No.	Classes.	Fees.
1	2	3
Class VII.		
59	Broker or <i>dalal</i> .. who is not included in Class V.	Twelve rupees.
60	<i>Mukhtear</i> ..	Ditto.
61	Professional draftsman. ..	Ditto.
62	Professional artist, sculptor, actor, singer or musician. ..	Ditto.
63	Fortune-teller ..	Ditto.
64	Keeper of a permanent stall in a daily market, who is not included in any higher class.	Ditto.
65	Keeper of a shop within fifty yards of a daily market who is a seller of goods similar in kind to other goods sold in such market, Ditto ..	Ditto.
66	<i>Poddar</i> or money-changer, the rent of whose place of business is not less than Rs. 5, but not more than Rs. 15.	Ditto.
67	Medical practitioner (whether registered under the Bengal Medical Act, 1914, or otherwise), practising apothecary, <i>hakim</i> , <i>kabiraj</i> , graduate of the Bengal Veterinary College, or midwife, who is not included in Class VI and <sup>1</sup> [by whom income-tax is not payable on an income of Rs. 2,000 or more].	Ditto.
68	Proprietor of a periodical or journal, who is not included in Class IV, Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 10 <i>per mensem</i> or upwards.	Ditto.

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<sup>1</sup>These words and figure were substituted for the words "by whom no income-tax is payable" by s. 2 (b) of the Calcutta Municipal (Second Amendment) Act, 1936 (Ben. Act XII of 1936).



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(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

Serial No.	Classes.	Fees.
1	2	3
	Class VII— <i>contd.</i>	
69	Owner of a cargo-boat	Twelve rupees.
70	Professional horse-breaker. ..	Ditto.
71	Labour-supplier, licensed shipping broker, boat-supplier or custom-house agent. ..	Ditto.
72	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototyper, who is not included in Class IV, Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Ditto.
73	Dyer or cleaner .. who is not included in Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Ditto.
74	Hotel-keeper, boarding house-keeper, lodging house-keeper, manufacturer, retail-trader or shop-keeper, who is not included in Class IV, Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Ditto.
75	Order supplier or house decorator, who is not included in Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Ditto.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1).

Serial No.	Classes.	Fees.
1	2	3
Class VII—concl'd.		
76	Plumber, electric-fitter or gas-fitter, who is not included in Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Twelve Rupees
77	Carriage-dealer or horse-dealer, who is not included in Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Ditto.
78	Owner of any carriage, passenger-boat or palanquin which is let out for hire, the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.	Ditto.
79	Band-supplier or stamp-vendor, Ditto ..	Ditto.
Class VIII.		
80	Keeper of a shop or other place of business, who is not included in any other class.	Four rupees.
81	Pedlar, vendor of goods in carts, hawker or <i>box wallah</i> , who is not included in Class IX.	Ditto.
82	Professional petition, letter or bill writer. ....	Ditto.
Class IX.		
83	Itinerant dealer, hawking goods for sale in a basket or tray. ....	One rupee.

*(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 2-5.)*

Licenses to be either personal or local.

2. (1) Licenses shall be either personal or local.

(2) "Personal license" means a license which is not a local license, and includes a license granted to a company or association or body of individuals.

(3) "Local license" means—

(a) a license the classification of which depends on the valuation of the place of business, and

(b) a license granted under Class IV, number 13, or Class V, number 32, or number 33, or Class VI, number 42, or number 43, or Class VII, number 64, or number 69, or Class VIII, number 80, in the table in rule 1.

Personal license required for each separate profession, trade or calling.

3. When any person carries on two or more professions, trades or callings which are separate or independent of one another and for each of which a personal license is required, he shall be liable to take out a personal license for each such profession, trade or calling :

Provided that, if, in the opinion of the Executive Officer, any such profession, trade or calling is auxiliary to the carrying on of one or more of such other professions, trades or callings, such person shall only be required to take out a license under the highest of the two or more classes in the table in rule 1 under which his liability accrues.

Personal license of members of firms.

4. When two or more persons carry on business jointly, they may take out a single license as a firm :

Provided that, if any of the partners of such firm exercises or carries on any separate profession, trade or calling on his own account or jointly with other partners, a separate license shall be taken out in respect of every such profession, trade or calling.

Local license required for each business.

5. A separate local license shall be taken out in respect of the business carried on in each separate place of business :

Provided that—

(a) separate licenses shall not be required in respect of any business carried on in adjacent premises which form one place of business or in any yards, godowns or factories which are auxiliary to any place of business; and

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(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 6-10.)

- (b) the amount of the valuation of such premises, yards, godowns or factories shall be included in the computation for determining the class under which the license shall be taken out.

6. When a place of business occupies only a portion of one set of premises and has not been separately valued under Chapter X, the valuation thereof for the purposes of these rules shall be the rate *per mensem* at which such place of business might, in the opinion of the Executive Officer, reasonably be expected to let.

Valuation of places of business not separately valued under Chapter X.

7. When any person exercises or carries on a profession, trade or calling for which a personal license should under these rules be taken out, and is also the owner or occupier of a place of business for which a local license should be taken out, he shall, if the Corporation so direct, take out both a personal license and a local license :

When both personal and local license required.

Provided that, where the place of business is auxiliary to the exercise or carrying on of the profession, trade or calling, only one license shall be required, and such license shall be either personal or local as the Corporation may direct.

8. Where the owner or occupier of any place of business is required to take out a license, the license shall be taken out by the occupier if the business is carried on by the occupier, but otherwise by the owner.

Occupier ordinarily to be licensee.

9. (1) As soon as may be after the first day of April in every year, the Executive Officer shall prepare a list of the companies, associations, bodies and persons licensed for the next preceding year.

Annual list of licensees.

(2) Such list shall contain the particulars specified in section 498, sub-section (1), and shall be kept at the municipal office and be open to public inspection at all reasonable times.

10. Any person who has taken out a license for the next preceding year, or has been fined under section 492 for not taking out a license during that year, shall, subject to the other provisions of these rules, be presumed, unless he proves to the contrary, to be liable and entitled to take out a license for the current year under the class in which he was included for such preceding year.

Continuance of liability in same class.

*(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 11, 12.)*

Time for presentation of applications for remissions, etc.

11. (1) Any person who claims a remission or refund of a license fee under proviso (a) to section 175, in respect of any year, shall present an application to the Corporation before the first day of September in the next following year.

(2) Any person who—

- (i) has taken out a license for the next preceding year or has been fined under section 492 for not taking out a license during that year, and,
- (ii) in consequence of any change in his profession, trade, calling or place of business, or for any other reason, claims an exemption or declaration under proviso (b) or proviso (c) to section 175,

shall present an application to the Corporation before the first day of September in the current year.

Power to Executive Officer to issue notices to take out licenses, etc.

12. (1) If the Executive Officer considers—

- (a) that any person who has not taken out a license in the next preceding year ought to take out a license, or
- (b) that any person who has taken out a license for such year, but has not done so for the current year, ought to take out a license under a higher class, or to take out more than one license,

he may serve such person with a notice directing him to take out a license or licenses for the next preceding year or the current year, as the case may be, under such class or classes as may to the Executive Officer seem proper.

(2) If the Executive Officer considers that any person who has taken out a license for the current year ought to have taken out a license under a higher class, he may serve such person with a notice directing him forthwith to take out a license under such higher class for that year:

Provided that when such license under a higher class has been taken out, the amount paid in respect of the license in the lower class shall, unless such person is liable to take out both licenses, be refunded to him.

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*(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 13-17.)*

**13.** When any person is summoned for not taking out a license, and service of notice under rule 12, sub-rule (1), is not proved, it shall be incumbent on the Executive Officer to prove that the person so summoned is liable to take out a license, and to state the class under which he is so liable.

Executive Officer to prove liability, when service of notice not proved.

✓ **14.** Any person dissatisfied with an order made under this schedule may appeal either—

Appeal to Bench or to Court of Small Causes.

(a) to a Bench consisting of not less than three Councillors or Aldermen to be elected by the Corporation; or

(b) to a Court of Small Causes having jurisdiction in the place in which the profession, trade or calling is alleged to be exercised or carried on:

Provided that no appeal shall lie under this rule unless the amount payable for the license, as assessed in accordance with the said notice, has been deposited with the Corporation:

Provided also that where an assessee has taken out a license for the next preceding year, the sum to be deposited under the first proviso to this rule shall not exceed the amount which he paid in such year.

**15.** Any person who is desirous of appealing under rule 14 shall, within thirty days of the passing of the order or the service of the notice, referred to in that rule, submit to the Secretary to the Corporation a petition setting forth the grounds of appeal,

Statement by appellant.

and the petitioner shall intimate whether he intends to appeal to the Bench under clause (a), or to a Court of Small Causes under clause (b), of rule 14:

Provided that no appeal shall be made to a Court of Small Causes under rule 14 until the expiration of a period of one month from the submission of a petition under this rule.

**16.** When an appeal is made under these rules to a Court of Small Causes, the Court may follow the procedure prescribed in section 528, and the order of the said Court shall be final.

Procedure of Court in appeal.

**17.** When no appeal is preferred under these rules, the order of the Corporation or the Executive Officer, as the case may be, shall be final.

Finality of order of Corporation or Executive Officer when no appeal.

(Schedule VII.—Wards for purposes of valuation.)

## SCHEDULE VII.

## WARDS FOR PURPOSES OF VALUATION.

(See section 131.)

Serial No. of Ward	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
1	Shampukur	The Circular Canal	Ultadingi Road and Grey Street.	The Circular Canal and Upper Circular Road.	Upper Chitpur Road and the Chitpur Bridge Approach.
2	Kumartuli ..	The River Hooghly.	Nimtala Ghat Street and the road leading to Nimtala Ghat.	Upper Chitpur Road and the Chitpur Bridge Approach.	The River Hooghly.
3	Bartola ..	Grey Street and Ultadingi Road.	Beadon Street and Maniktala Road.	The Circular Canal.	Upper Chitpur Road and Upper Circular Road.
4	Sukeas Street	Beadon Street and Maniktala Road.	Machua Bazar Street and Gas Street.	The Circular Canal and Upper Circular Road.	Cornwallis Street
5	Jorabagan ..	Nimtala Ghat Street and the road leading to Nimtala Ghat.	Cotton Street and Mirbahar Ghat Street.	Upper Chitpur Road.	The River Hooghly.
6	Jorasanko ..	Beadon Street ..	Machua Bazar Street.	Cornwallis Street.	Upper Chitpur Road.
7	Bara Bazar	Mirbahar Ghat Street and Cotton Street.	Lal Bazar Street, Dalhousie Square, North, Fairlie Place and a line drawn in continuation of Fairlie Place to the river bank.	Lower Chitpur Road.	The River Hooghly.
8	Collootola ..	Machua Bazar Street.	Bow Bazar Street	College Street	Lower Chitpur Road.

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*(Schedule VII.—Wards for purposes of valuation.)*

Serial No. of Ward.	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
✓ 9	Muchipara	Machua Bazar Street and Gas Street.	Bow Bazar Street and Baliaghata Road including the new diversion.	The Circular Canal.	College Street.
✓ 10	Bow Bazar	Bow Bazar Street	Dharamtala Street	Wellington Street.	Bentinck Street.
11	Paddapukur	Ditto ..	Ditto ..	Lower Circular Road.	Wellington Street.
12	Waterloo Street.	Lal Bazar Street, Dalhousie Square, North, Fairlie Place and a line drawn in continuation of Fairlie Place to the river bank.	Esplanade, East, Lawrence Road and Esplanade, West.	Bentinck Street	The River Hooghly.
✓ 13 9	Fenwick Bazar.	Dharamtala Street	Kyd Street and Ripon Street.	Wellesley Street	Chowringhee Road and part of Free School Street.
✓ 14 67	Taltala ..	Ditto ..	Ripon Street ..	Lower Circular Road.	Wellesley Street.
✓ 15 L	Kalinga ..	Ripon Street ..	Theatre Road ..	Ditto ..	Wellesley Street and Wood Street.
✓ 16 J	Park Street..	Kyd Street and Ripon Street.	✓ Ditto ..	Wood Street and Wellesley Street.	Chowringhee Road.
✓ 17	Bamun Buxtee.	Theatre Road ..	Lower Circular Road.	Lower Circular Road.	Ditto.



## (Schedule VII.—Wards for purposes of valuation.)

Serial No. of Ward.	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
✓ 18	Tangra ..	Balliaghatta Canal and Pagladanga Road.	Tiljala Road and Topsia Road, South.	Pagladanga Road, Chingrihata Road, Tangra Road, South, Topsia Road, North, Hughes Road, and the new road connecting Hughes Road and Topsia Road, South, where the town and Suburban High Level Sewers meet.	Kakurgachi Chord and the Eastern Bengal Railway.
19	Entally ..	Balliaghatta Road, including the new diversion and the Circular and Balliaghatta Canals.	Beniapukur Road, Phulbagan Road, South Road and Christopher Road.	Kakurgachi Chord and the Eastern Bengal Railway.	Lower Circular Road.
20	Beniapukur	Beniapukur Road, Phulbagan Road, South Road and Christopher Road.	The Calcutta Improvement Trust new 100 feet road running from Beckbagan Lane and Lower Circular Road corner and meeting the Park Circus, the new 100 feet Calcutta Improvement Trust Road from the Park Circus meeting Darga Road and in its continuation, the new 60 feet Calcutta Improvement Trust Road to the Eastern Bengal Railway.	Ditto ..	Ditto.

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*(Schedule VII.—Wards for purposes of valuation.)*

Serial No. of Ward.	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
21	Ballygunj ..	Lower Circular Road, the Calcutta Improvement Trust new 100 feet road running from Beckbagan Lane and Lower Circular Road corner and meeting the Park Circus, the new 100 feet Calcutta Improvement Trust Road from the Park Circus meeting Darga Road and, in its continuation, the new 60 feet Calcutta Improvement Trust Road from Darga Road to the Eastern Bengal Railway, thence along Tiljala Road to the point where it meets Topsia Road, South.	Hazra Road, Bondel Road and a line drawn straight from the Eastern Bengal Railway to the southern edge of Tiljala Masjidbari Lane, and the southern edge of Tiljala Masjidbari Lane.	Topsia Road, South, Tiljala, Masjidbari Lane and the Eastern Bengal Railway line.	Lansdowne Road.
22	Bhawanipur	Lower Circular Road.	<sup>1</sup> [A line drawn from Balaram Bose's Ghat eastward along Balaram Bose's Ghat Road up to its junction with Kalighat Road; thence along a portion of Kalighat Road up to its junction with Russa Road; thence southward along Russa Road up to its junction with Hazra Road;	Lansdowne Road <sup>2</sup>	Tolly's Nullah and Zeerut Bridge Approach.

<sup>1</sup>These words were substituted for the original words by s. 4(1)(a) of the Calcutta Municipal (Amendment) Act, 1932 (Ben. Act XVI of 1932).

<sup>2</sup>The words "and Russa Road, South" were omitted by s. 4(1)(b), *ibid.*

## (Schedule VII.—Wards for purposes of valuation.)

Serial No. of Ward.	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
<b>Page 456—</b> In Schedule VII. :- <i>substitute the serials</i> "23, 24 and 25" in and 26" respectively. (Substituted and re- 12.) [No. 1, dated the 15th .			thence east- ing Hazra up to junction adowne		
			Bhatta- Street, Sada- ad and Behari	Russa Road ..	Tolly's Nullah.]
23	Alipur ..	Tolly's Null ..	Tollygunj Cir- cular Road and the southern boundary of the land acquir- ed by the Port Commissioners for the Dock extension as existing at the time of the commencement of the Act up to the point where it meets Diamond Har- bour Road.	Tolly's Nullah	Diamond Har- bour Road and Kidder- pur Bridge Approach.
24	Ekbalpur ..	Circular Garden Reach Road.	Shahapur Road, Goragacha Road and Taratala Road.	Diamond Harbour Road.	Hide Road.
✓ 25	Watgunj and Hastings.	Clyde Road, Strand Road and a line drawn in continuation of the south side of Strand Road to the river and the River Hooghly.	Circular Garden Reach Road and the South- ern edge of the line of old Tara- tala Road.	St. George's Gate Road, the Kidderpore Bridge Ap- proach and Hide Road.	[The eastern boundary of the Garden Reach Muni- cipality.]
**	*	*	*	*	*

\*These entries were inserted by s. 4(2) of the Calcutta Municipal (Amendment) Act, 1932 (Ben. Act XVI of 1932).

\*These words were substituted for the original words by the Garden Reach Municipality Act, 1933 (Ben. Act III of 1932).

\*The entries relating to Ward No. 26 (Garden Reach) were omitted, *ibid.*

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*(Schedule VII.—Wards for purposes of valuation.)*

Serial No of Ward.	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
27	Tollygunj ..	Bondel Road, Hazra Road, Nepal Bhat- tacherjee Street to Tolly's Nul- lah.	Tollygunj Cir- cular Road and the Eastern Bengal Rail- way, Budge Branch.	Russa Road, South, and the Eastern Bengal Railway line.	Russa Road, South, and Tolly's Nullah.
✓ 28	Baliaghatta	Narikeldanga Main Road.	Baliaghatta Canal	New Canal ..	Circular Canal.
29	Maniktola ..	New Canal ..	Narikeldanga Main Road.	New Canal ..	Ditto.
✓ 30	Belgachia ..	Paikpara Road and Belgachia Road.	The Circular Canal and the New Canal.	Eastern Bengal Railway.	Barrackpore Trunk Road.
31	Satpukur ..	Kali Charan Ghose Road and Ram Krishna Ghose Lane.	Paikpara Road and Belgachia Road.	Ditto ..	Ditto.
32	Cossipur ..	Pramanick Ghat Road, Cossipur Road and Kasinath Dutt Road.	Circular Canal ..	Barrackpore Trunk Road.	The River Hooghly.

## (Schedule VII.—Wards for purposes of valuation.)

Serial No. of Ward	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6

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In Schedule VII, in column 1 for serial number "22A" substitute the serial number "23" and renumber serial numbers "23, 24 and 25" in the said column as serial numbers "24, 25 and 26" respectively. Tolly's Nullah.]

(Substituted and renumbered by Ben. Act XI of 1939, section 12.)

[No. 1, dated the 15th September, 1939.]

23	Alipur ..	Tolly's Nullah ..	Tollygunj Circular Road and the southern boundary of the land acquired by the Port Commissioners for the Dock extension as existing at the time of the commencement of the Act up to the point where it meets Diamond Harbour Road.	Tolly's Nullah	Diamond Harbour Road and Kidderpur Bridge Approach.
24	Ekbalpur ..	Circular Garden Reach Road.	Shahapur Road, Goragacha Road and Taratala Road.	Diamond Harbour Road.	Hide Road.
✓ 25	Watgunj and Hastings.	Clyde Road, Strand Road and a line drawn in continuation of the south side of Strand Road to the river and the River Hooghly.	Circular Garden Reach Road and the Southern edge of the line of old Taratala Road.	St. George's Gate Road, the Kidderpore Bridge Approach and Hide Road.	[The eastern boundary of the Garden Reach Municipality.]
**	*	*	*	*	*

<sup>1</sup>These entries were inserted by s. 4(2) of the Calcutta Municipal (Amendment) Act, 1932 (Ben. Act XVI of 1932).

<sup>2</sup>These words were substituted for the original words by the Garden Reach Municipality Act, 1932 (Ben. Act III of 1932).

<sup>3</sup>The entries relating to Ward No. 26 (Garden Reach) were omitted, *ibid.*

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*(Schedule VII.—Wards for purposes of valuation.)*

Serial No of Ward.	Name of Ward.	Boundaries of Ward—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
27	Tollygunj ..	Bondel Road, Hazra Road, Nepal Bhat- tacherjee Street to Tolly's Nul- lah.	Tollygunj Cir- cular Road and the Eastern Bengal Rail- way, Budge Budge Branch.	Russa Road, South, and the Eastern Bengal Railway line.	Russa Road, South, and Tolly's Nullah.
✓ 28	Baliaghatta	Narikeldanga Main Road.	Baliaghatta Canal	New Canal ..	Circular Canal.
29	Maniktola ..	New Canal ..	Narikeldanga Main Road.	New Canal ..	Ditto.
✓ 30	Belgachia ..	Paikpara Road and Belgachia Road.	The Circular Canal and the New Canal.	Eastern Bengal Railway.	Barrackpore Trunk Road.
31	Satpukur ..	Kali Charan Ghose Road and Ram Krishna Ghose Lane.	Paikpara Road and Belgachia Road.	Ditto ..	Ditto.
32	Cossipur ..	Pramanick Ghat Road, Cossipur Road and Kasinath Dutt Road.	Circular Canal ..	Barrackpore Trunk Road.	The River Hooghly.

## VOLUME IV.

Page 458—

For items 6 to 14 substitute the following items:—

Per half-year  
D.

Page 458—

For the existing table in Schedule VIII, substitute the following:—

		Per half year.	
		Rs.	a.
1.	On every four-wheeled carriage (not being a hackney-carriage) drawn by two horses .. ..	24	0
2.	On every four-wheeled hackney-carriage drawn by two horses .. ..	16	0
3.	Where any person owns more than one carriage included in class 1, then on every such carriage after the first .. ..	16	0
4.	Where any person owns more than one carriage included in class 2, then on every such carriage after the first .. ..	12	0
5.	On every four-wheeled carriage (not being a hackney-carriage) drawn by one horse, pony or mule, or a pair of ponies or mules under 13 hands .. ..	12	0
6.	On every four-wheeled hackney-carriage of the description mentioned in class 5 .. ..	8	0
7.	On every two-wheeled carriage drawn by one or more animals .. ..	12	0
8.	On every jinrickshaw .. ..	4	0
9.	On every horse (not being a race or hackney-carriage horse) .. ..	12	0
10.	On every race horse .. ..	48	0
11.	On every hackney-carriage horse .. ..	8	0
12.	On every pony or mule of or over 13 hands—		
	(a) not used in a hackney-carriage .. ..	12	0
	(b) used in a hackney-carriage .. ..	8	0
13.	On every pony or mule under 13 hands .. ..	4	0

(Substituted by notification No. L.S.-G. 152/46/1A., dated the 18th May, 1946. published in the *Calcutta Gazette*, 1946, Part I, page 778.)

[No. 44, dated the 2nd August, 1949.]

August, 1940, published in the *Calcutta Gazette*, 1940, Part I, page 2317.]

[No. 25, dated the 10th December, 1942.]

*(Schedule IX.—Scavenging-tax.)*

**SCHEDULE IX.**

**SCAVENGING-TAX.**

**Page 459—**

II. For Part II of Schedule IX, substitute the following :—

*Part II—Rules of fee for licenses.*

		Per half year.	
		Rs.	a.
1. For every horse—			
(i) not used in a hackney-carriage	..	12	0
(ii) used in a hackney-carriage	..	8	0
		Per half year.	
		Rs.	a.
2. For every pony or mule of or over 13 hands—			
(i) not used in a hackney-carriage	..	12	0
(ii) used in a hackney-carriage	..	8	0
3. For every pony or mule under 13 hands—			
(i) not used in a hackney-carriage	..	6	0
(ii) used in a hackney-carriage	..	4	0
4. For every bull or buffalo used for drawing cart	..	3	0
5. For every cow or buffalo kept by a milk-seller	..	1	8
6. For every donkey or swine	..	1	8
7. For every ten sheep or goats	..	6	0
8. For every twelve cubic feet of offensive matter and rubbish or part thereof removed on an average daily from a market.	..	60	0

(Substituted by notification No. L. S.-G. 152/46/1A., dated the 18th May, 1946, published in the *Calcutta Gazette*, 1946, Part I, page 778.)

[No. 44, dated the 2nd August, 1949.]

market

[Substituted by notification No. 1082-M., dated the 27th August, 1940, published in the *Calcutta Gazette*, 1940, Part I, page 2317.]

[No. 25, dated the 10th December, 1942.]

.. 30 0 0



(Schedule X.—Form of notice of demand.)

SCHEDULE X.

FORM OF NOTICE OF DEMAND

[See sections 190 (1) and 206 (1). ]

To

A. B.

residing at

Take notice that the Corporation of Calcutta demand from you (\*as owner or occupier) the sum of due from you on account of the consolidated rate (or tax as the case may be) for (here describe the premises on account of which the rate is leviable or the carriage, animal, profession, trade or calling on account of which the tax is payable) for the quarter (or half-year, or year) commencing (or ending) on the            day of            ; and that if the said sum is not paid into the municipal office at            or to an officer appointed to receive the same, or if sufficient cause for non-payment of the same is not shown to the satisfaction of the Chief Executive Officer within seven days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this            day of

(Signed.)

Executive Officer, Calcutta Corporation.

\*In the case of a demand on the occupier of any premises under section 199, state that notice of demand has been served upon the owner and that the sum due remains unpaid.

of 1923.]

*(Schedule XI.—Form of warrant of distress.)*

## SCHEDULE XI.

### FORM OF WARRANT OF DISTRESS.

*[See sections 191 (1), 198 (1) and 210 (1).]*

To *(here insert the name of the officer charged with the execution of the warrant.)*

Whereas A. B. of \_\_\_\_\_, has not paid, or shown sufficient cause to my satisfaction for the non-payment of, the sum of \_\_\_\_\_ due for the consolidated rate (or tax, *as the case may be*) for the quarter (or half-year or year) commencing (or ending) on the \_\_\_\_\_ day of \_\_\_\_\_, although the said sum has been duly demanded in writing from the said A. B., and seven days have elapsed since the service of the notice of demand;

*[or Whereas the proceeds of the sale of the movable property of A. B., of \_\_\_\_\_, distrained under a warrant dated \_\_\_\_\_, and sold under section 197, are not sufficient to cover the sum distrained for;*

And whereas the sum of \_\_\_\_\_ is still due from the said A. B. ;]

*[And whereas the said sum has been increased under section 208 (or section 209, as the case may be), to \_\_\_\_\_ ;]*

This is to direct you to distrain the movable property of the said A. B. (or, *as the case may be*, any movable property found on the premises in respect of which the said rate is due) to the amount of the said sum of \_\_\_\_\_ and such further sum as may be sufficient to defray the costs of recovering the said amount; and if within seven days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said movable property; and having paid and deducted out of the proceeds of the sale the said sum of \_\_\_\_\_ and the costs of recovering the same, to return the surplus (if any) and if the same be demanded within three years from the date of the sale, to the person whom you shall find in possession of the said movable property.

If sufficient distress cannot be found of the movable property of the said A. B. (or on the said premises, *as the case may be*), you are to certify the same to me together with this warrant.

*Dated this \_\_\_\_\_ day of \_\_\_\_\_*

*(Signed.)*

Executive Officer, Calcutta Corporation.

## (Schedule XII.—Table of fees payable on warrants of distress.)

## TABLE OF FEES PAYABLE ON WARRANTS OF DISTRESS.

## SCHEDULE XII.

[See section 191(3).]

Sum distrained for.						Fee.	
						Rs.	a.
Under 5 rupees	..	..	..	..	..	0	4
Rupees 5 and under Rs. 10	..	..	..	..	..	0	8
„ 10 „ „ 15	..	..	..	..	..	0	12
„ 15 „ „ 20	..	..	..	..	..	1	0
„ 20 „ „ 25	..	..	..	..	..	1	4
„ 25 „ „ 30	..	..	..	..	..	1	8
„ 30 „ „ 35	..	..	..	..	..	1	12
„ 35 „ „ 40	..	..	..	..	..	2	0
„ 40 „ „ 45	..	..	..	..	..	2	4
„ 45 „ „ 50	..	..	..	..	..	2	8
„ 50 „ „ 60	..	..	..	..	..	3	0
„ 60 „ „ 80	..	..	..	..	..	3	12
„ 80 „ „ 100	..	..	..	..	..	4	8
Above 100 rupees	..	..	..	..	..	5	0

The above fees are to include all expenses except when peons are kept in charge of property distrained in which case eight annas shall be paid daily for each peon so employed.



(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 1-4.)

## SCHEDULE XIV.

### RULES AS TO PRIVATE CONNECTIONS TO PREMISES AND METERS.

(See sections 232, 240 and 488.)

#### *Private connections to premises.*

Separate service-pipes for separate premises.

1. (1) All premises connected with the filtered water-supply shall be provided with separate service-pipes from the municipal main.

(2) In any case in which a service-pipe from a main is used for supply filtered water to two or more premises, the Corporation may, by written notice, require the owners of such premises to lay down separate service-pipes for separate premises; and the expense of so doing shall be borne by all such owners in such proportion as may be determined by the Corporation.

(3) The Corporation shall not delegate to any municipal officer their power to make a requisition by written notice under sub-rule (2).

Separate stop-cocks and under-ground hydrants or taps for supply of unfiltered water to private premises.

2. (1) In premises connected with the municipal water-supply, separate stop-cocks shall be provided by the owner for controlling the supply of unfiltered water for the purposes mentioned in clause (i) and clause (ii), respectively, of sub-section (2) of section 221.

(2) When unfiltered water is supplied for any of the purposes mentioned in clause (ii) of sub-section (2) of section 221, it shall be so supplied as to be capable of being drawn only from hydrants or taps fixed below the surface of the ground.

Outer-stop-cocks.

3. When any premises are about to be connected with the municipal mains, the Corporation may, by written notice, require the owner of the premises to fix a stop-cock in some position outside the premises which is accessible at all times from the nearest street.

Size of ferrules.

4. (1) Filtered or unfiltered water supplied under Chapter XVII to any premises shall be supplied according to the annal value of such premises, as determined

of 1923.]

(Schedule XIV.—Rules as to private connections to premises and meters.—Rule 5.)

under Chapter X, through a ferrule of the size prescribed therefor in the following table:—

Value of premises as determined under Chapter X.					SIZE OF FERRULE.	
					Filtered water.	Unfiltered water.
From	1 to	599 rupees (both inclusive)			$\frac{1}{4}$ inch	$\frac{1}{2}$ inch
	600 to	1,199	..	..	$\frac{1}{2}$ ..	$\frac{1}{2}$ ..
	1,200 to	2,399	..	..	$\frac{3}{8}$ ..	$\frac{1}{2}$ ..
	2,400 to	3,599	..	..	$\frac{1}{2}$ ..	$\frac{1}{2}$ ..
					$\frac{3}{4}$ ..	$\frac{3}{4}$ ..
					$\frac{7}{8}$ ..	$\frac{7}{8}$ ..
					or	or
					1 ..	1 ..
	3,600 rupees or more					

Provided as follows:—

- (a) the <sup>1</sup>[Provincial Government] may, on the recommendation of the Corporation, substitute any other scale for the scale of ferrules prescribed in the said table;
- (b) if any premises be so situated that the ferrule prescribed therefor in the said table or under proviso (a) is too small to pass, within a period of six hours, the daily supply of water to which the occupier of the premises is entitled under section 223, the Corporation shall permit the use of a larger ferrule for such premises.

(2) Where a ferrule used at the commencement of this Act for the supply of water to any premises is larger than that prescribed for such premises in sub-rule (1) or under proviso (a) to that sub-rule, as the case may be, the Corporation may, at the expense of the municipal fund and after giving one month's notice in writing to the owner of the premises, substitute for such ferrule one of the size so prescribed.

5. (1) The service-pipe for carrying water from the municipal mains into any premises, and the pipes, taps and works (other than ferrules) within such premises, shall be of such character, dimensions and materials as the Corporation may fix and approve, and shall be made and constructed at the expense of the person requiring the same.

Construction of service-pipes, ferrules and works.

(2) The said ferrules shall be of such character and material as the Corporation may fix and approve, and

<sup>1</sup>See foot-note 1 on p. 331, ante.

[Sec. Act III]

*(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 6, 7.)*

except as provided in rule 4, sub-rule (2), shall be affixed at the expense of the occupier of the premises.

(3) The said service-pipe, and all fittings thereon for carrying water from the municipal mains into any premises, and all ferrules, pipes, taps, works and fittings inside the premises, shall in all cases be executed subject to the inspection of the Corporation and to their satisfaction;

and the connection of premises with the municipal mains, and the laying of supply-pipes under any public street or thoroughfare, shall be executed in the presence of a municipal officer authorized in that behalf, and in no other way.

(4) Such service-pipe, fittings, ferrules, pipes, taps and works may be made by the servants and workmen of the Corporation upon such terms as may be agreed upon between the Corporation and the person requiring the water-supply, or subject to such charges as may be fixed by them;

and, when they are to be so made, the Corporation may require the cost thereof to be paid or deposited before the work is executed.

Power to  
Corporation  
to inspect  
premises.

6. The Corporation may inspect any premises supplied with water under Chapter XVII in order to examine all pipes, taps, works and fittings connected with the supply of water, and to ascertain whether there is any waste or misuse of such water.

Replacing or  
alteration of  
fittings  
supplied

7. (1) *IF* - VOLUME IV.

Page 466.—After the proviso to sub-rule (1) of rule 7 of Schedule XIV

add the following:—

“Provided also that if the defect is such as in the opinion of the Executive Officer causes or is reasonably suspected to cause contamination in the supply of filtered water, the Corporation may forthwith and without notice carry out such work as may be necessary to remove the defect, and all expenses incurred by the Corporation in so doing shall, in their discretion, be recovered from the owner or occupier of the premises.”

Added by notification No. 1158M., dated the 1st August, 1939, published in *Calcutta Gazette* of 1939, Part I, page 1814.)

[No. 30, dated the 28th April, 1943.]

(2) If any notice issued under sub-rule (1) is not complied with within forty-eight hours, the Corporation may forthwith carry out the work, and the cost thereof shall be payable by the person to whom the notice was issued.

of 1923.]

(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 8-10.)

8. (1) Before a connection for the supply of water from the municipal mains to any premises is sanctioned by the Corporation, they shall cause all the works, pipes, taps, and fittings within such premises to be inspected by a duly qualified officer.

Inspection of works, etc., by qualified officer before permitting connection with mains.

(2) Until the Corporation have certified that the said works, pipes, taps and fittings have been executed and put up in a satisfactory manner, no connection with the municipal mains shall be made.

Meters.

9. (1) If the owner or occupier of any premises to the service-pipe of which a meter is attached desires to have the meter tested, he may send a written application to the Corporation, and such application shall be accompanied by a fee of five rupees.

Testing of meter.

(2) Upon receipt of any such application and fee, the Corporation shall forthwith cause such meter to be tested, at a time and place to be specified in a notice to be served upon such owner or occupier.

(3) If such meter is found, upon being so tested, to register more than two *per cent.* in excess of the correct quantity, the said fee shall be returned to the person who sent it.

10. If a meter which has been tested under rule 9 does not register more than two *per cent.* in excess of the correct quantity, the amount payable under section 238 shall be calculated according to the quantity indicated by the meter; but if the meter registers more than two *per cent.* in excess of the correct quantity, the quantity indicated shall, for the purpose of calculating the amount payable under section 238, be reduced by double the percentage of the excess registered:—

Payment by occupier in case of incorrectness of meter.

Provided that—

- (a) if such excess is more than ten *per cent.*, no charge shall be made under section 238; and
- (b) no reduction shall be allowed, in calculating the charge for excess under section 238, on account of the incorrectness of the meter, except on the amount payable for the quarter in which the application referred to in rule 9, sub-rule (1) is received.



*(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 11-13.)*

**Replacing  
of meter.**

**11.** When any meter attached to the service-pipe of any premises is out of order or under repair, the Corporation shall forthwith replace it by another meter.

**Prohibition of  
fraud in respect  
of meter.**

**12.** No person shall fraudulently—

- (a) alter the index to any meter, or prevent any meter from duly registering the quantity of water supplied, or
- (b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

**Prohibition of  
injuring meter  
of fittings.**

**13.** No person shall wilfully or negligently injure or suffer to be injured any meter belonging to the Corporation, or any of the fittings of any such meter.

of 1923.]

(Schedule XV.—Rules as to drains, privies and  
urinals.—Rules 1-3.)

SCHEDULE XV.

RULES AS TO DRAINS, PRIVIES AND URINALS.

[See Sections 266, 273, 274, 277, 278, 282, 284, 285, 286,  
287, 364(6) and (7) and 488.]

*Drains.*

1. (1) Every person who intends to construct a house-drain, or to make any substantial additions to, or alterations in, a house-drain, shall send to the Corporation an application in such form (to be supplied free of charge) as may be prescribed by the Corporation, and shall state therein the name and address of the licensed plumber who will execute the work and the purposes for which the drain is to be used.

Plans of house-drains to be submitted to Corporation.

(2) Such application shall be accompanied by a plan, in triplicate unless the Corporation otherwise direct, drawn to a scale of eight feet to the inch (or such smaller scale as the Corporation may consider sufficient), and showing—

- (a) the premises to be drained and the boundaries thereof,
- (b) the position of all existing filtered water pipes within the premises,
- (c) the alignment, gradient and size of the proposed house-drain and its appurtenances,
- (d) any existing drains and their appurtenances, and
- (e) any other particulars which may be prescribed by the Corporation.

2. Every underground house-drain constructed after the commencement of this Act shall consist of good sound pipes made of glazed stoneware or other suitable material, and shall have water-tight joints made of Portland cement or any other cement approved by the Executive Officer.

Material and joints.

3. Every such house-drain shall be of adequate size, with an internal diameter of not less than—

- (a) six inches between the master-trap and the sewer, and
- (b) four inches at all other places.

*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rules 4-8.)*

**4.** No such house-drain shall be so constructed as to form in any of such drains a right-angled junction, either vertical or horizontal, and every branch drain or tributary drain shall be joined to another drain obliquely, at an angle of not less than one hundred and thirty-five degrees, in the direction of the flow of such other drain.

**How to be  
laid.**

**5.** Every such house-drain shall be—

- (a) laid upon a bed of good concrete of such width as may be approved by the Executive Officer, and not less than six inches thick,
- (b) covered for half its depth with concrete not less than four inches thick, and
- (c) so constructed as to have a proper fall.

**Prohibition of  
inlet within  
building.**

**6.** Every such house-drain shall be so constructed as to prevent any inlet to the drain (other than such inlet as may be required from the apparatus of a connected-privy or urinal or a slop-sink constructed or adapted to be used for receiving sewage) being made within the premises.

**Traps.**

**7.** (1) In every such house-drain a suitable trap shall be provided.

(2) Such trap shall be placed—

- (a) within the premises, or,
- (b) with the approval of the Corporation and on payment of such fees as may be prescribed by the Corporation, in the footpath or (if there is no footpath) in the roadway adjacent to the premises, and
- (c) at a point as distant as may be practicable from the premises and as near as may be practicable to the point at which the drain is connected with a municipal sewer..

(3) Every inlet to any such house-drain (other than an inlet provided in pursuance of rule 8 as an opening for the ventilation of the drain) shall be properly trapped.

**Ventilation.**

**8.** The ventilation of every such house-drain shall be provided for as follows:—

- (1) at least two untrapped openings shall be made—
  - (a) one opening shall be made at or near the level of the surface of the ground adjoining the

of 1923.]

*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rule 8.)*

opening, shall be as near as may be practicable to the trap prescribed by rule 7, sub-rule (1), shall be on that side of such trap which is nearer to the premises, and shall communicate with the drain by means of a suitable pipe, shaft or disconnecting chamber;

- (b) the second opening shall be made by carrying up, from a point in the drain as far distant as may be practicable from the point at which the opening mentioned in sub-clause (a) is situated, a pipe or shaft fixed vertically to such height and in such manner as effectually to prevent any escape of foul air from such pipe or shaft into any premises in the vicinity thereof, and in no case to a less height than ten feet;

(2) in any case in which the Executive Officer considers it impracticable to enforce the provisions of sub-clause (a) and sub-clause (b), the two openings prescribed by clause (1) shall be made as follows:—

- (i) one opening shall be made by carrying up from a point as near as may be practicable to the trap prescribed by rule 7, sub-rule (1), a pipe or shaft fixed vertically to such height and in such manner as effectually to prevent any escape of foul air from such pipe or shaft into any premises in the vicinity thereof, and in no case to a less height than ten feet; and such opening shall be situated on that side of the said trap which is nearer to the premises;

- (ii) the second opening shall be made at a point in the drain as far distant as may be practicable from the point at which the said pipe or shaft is carried up, shall be at or near the level of the surface of the ground adjoining the opening, and shall communicate with the drain by means of a suitable pipe or shaft;

(3) every opening provided under this rule shall be furnished with a suitable grating or other suitable cover for the purpose of preventing any obstruction in, or injury to, any pipe or drain by the introduction of any substance through the opening;

*The Calcutta Municipal Act, 1923.*

[Sec. Act III]

*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rule 9.)*

(4) such grating or cover shall be so constructed and fitted as to secure the free passage of air through it by means of a sufficient number of apertures, the aggregate extent of which shall be not less than the sectional area of the pipe or drain to which the grating or cover is fitted;

(5) every pipe or shaft referred to in this rule shall be of a sectional area not less than that of the drain with which the pipe or shaft communicates and not less than the sectional area of a pipe or shaft of the diameter of four inches;

(6) except with the written permission of the Corporation, no bend or angle shall be formed in any pipe or shaft referred to in this rule;

(7) where the situation, height, sectional area and mode of construction of the soil-pipe of any connected-privy or connected-urinal, or the waste-pipe from any slop-sink situated within any premises, are such as are prescribed by this rule for a pipe or shaft for ventilating a drain, such soil-pipe shall, with the consent of the Executive Officer, be deemed to provide the opening which, under this rule, is required to be provided by means of a pipe or shaft.

**Soil-pipe of  
connected-privy  
or urinal.**

**9.** The soil-pipe of every connected-privy or connected-urinal constructed after the commencement of this Act or provided for a new building shall—

- (a) be at least four inches in diameter,
- (b) be fixed outside the privy or urinal, or outside the building in which the privy or urinal is situated, and be continued upwards without any diminution of its diameter,
- (c) be of such height and be so placed as to afford, by means of the open end of the pipe, a safe outlet for sewer air,
- (d) whenever practicable, be so constructed as to avoid any bend or angle, and
- (e) be so constructed as to have no trap between the pipe and the drains with which the privy or urinal communicates, and no trap (other than such trap as necessarily forms part of the apparatus of the privy or urinal) in any part of the pipe.

of 1923.]

(Schedule XV.—Rules as to drains, privies and  
urinals.—Rules 10, 11.)

**10.** Where any such connected-privy or connected-urinal has no internal communication with any building other than the privy or urinal, then,—

Ventilation of soil-pipe of connected-privy or urinal detached from building.

- (a) if the distance between the privy or urinal and the trap provided under rule 7, sub-rule (1), in the drain with which the privy or urinal communicates is not more than ten feet, no ventilation-pipe need be fixed in the soil-pipe;
- (b) the overflow-pipe from any cistern or from not more than thirty feet, a ventilation-pipe shall be fixed in the soil-pipe at a point as far distant as may be practicable from the trap provided under rule 7, sub-rule (1); and such pipe shall be placed vertically to such height and in such manner as effectually to prevent any escape of foul air from the pipe into any building in the vicinity thereof, and in no case to a less height than ten feet, and shall be of a sectional area not less than that of the drain with which it communicates, and not less than the sectional area of a pipe of the diameter of four inches;
- (c) if the said distance is more than thirty feet the soil-pipe shall be ventilated in the manner prescribed by rule 8.

**11.** (1) The following pipes in any new building, Waste-pipes.  
ly:—

- (a) the waste-pipe from any bath-sink (not being a slop-sink constructed or adapted to be used for receiving sewage) or lavatory,
- (b) the overflow-pipe from any cistern or from any safe under a bath or connected-privy or connected-urinal, and
- (c) every other pipe for carrying off waste water,

shall be taken through an external wall of the building, may, if the Executive Officer so directs, be provided with a suitable trap, and shall be so constructed as to discharge into the open air over a channel leading to a trapped gully-grating at least eighteen inches distant from that end of the pipe from which the water issues.

*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rules 12-15.)*

(2) The waste-pipe in any such building from any slop-sink constructed or adapted to be used for receiving sewage shall be constructed so as to comply with such of the rules in this schedule as relate to the soil-pipe of a connected-privy or connected-urinal.

**Open-house  
drains.**

**12.** (1) Every open house-drain constructed after the commencement of this Act, or provided for a new building, for the purpose of discharging surface or sullage water, shall be constructed of brick masonry or concrete covered with a plaster containing not less than twenty-five *per cent.* of Portland cement or any other cement approved by the Executive Officer or of natural or artificial stone, or of glazed half-round pipes.

(2) Every such open house-drain shall be connected with a municipal sewer through trapped inlets in the manner prescribed under this Act or under any rule or by-law made thereunder for other house-drains.

**Type-plans.**

**13.** Type-plans for the construction of house-drains shall be prepared by the Corporation and kept open to the inspection of any applicant at the municipal office at all reasonable times without charge.

**Maintenance of  
house-drains  
kept up for the  
benefit of certain  
premises only.**

**14.** (1) Every house-drain which is situated in, alongside or under any street, and which has been or shall be constructed, whether at the charge of the municipal fund or not, for the sole use and benefit of, or which is continued for the sole use and benefit of, any premises adjoining or near to such street,—

shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owner or occupier of such premises as the Corporation may direct.

(2) The Corporation may, by written notice, require such owner or occupier, as the case may be—

(a) to repair, flush, cleanse or empty such house-drain, or

(b) to take such other order with such house-drain as the Corporation may deem necessary.

**Maintenance of  
house-drains  
jointly used by  
two or more  
premises.**

**15.** (1) Every house-drain whether constructed at the charge of the municipal fund or not which is jointly used for the drainage of two or more premises, shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owners or occupiers of such premises as the Corporation may direct.

of 1923.]

*(Schedule XV.—Rules as to drains, privies and urinals.—Rules 16-18 .)*

(2) The Corporation may, by written notice, require the said owners or occupiers, as the case may be, to carry out any work referred to in sub-rule (1), and the cost thereof, whether incurred by the said owners or occupiers or by the Corporation under section 510, sub-section (2), shall be paid by the said owners or occupiers in such proportion as the Corporation may think fit.

**16.** (1) When any underground drain, which is not a municipal drain, is being laid, the Executive Officer may cause the work to be supervised and may from time to time, by written notice to the person carrying out the work, require the making of any reasonable alteration or addition therein or thereto, or the abandonment of any part thereof, if such alteration, addition or abandonment appears to him to be necessary for ensuring the complete and satisfactory execution of the work.

Power to Executive Officer to supervise and require alteration of work of laying underground drain.

(2) If any requisition under sub-rule (1) is not complied with, the Corporation may stop the work and dismantle anything which has been done in contravention of such requisition, and the expenses of so doing shall be paid by the person to whom the requisition was addressed.

**17.** Except with the written permission of the Corporation and in conformity with such conditions as may be prescribed by the Corporation, either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

Restriction on construction of drain beneath building.

**18.** The following provisions shall be observed when any drain is, with the permission of the Corporation granted under rule 17, constructed so as to pass beneath a building, namely:—

Drains pass beneath a building.

- (1) the drain-pipe shall be of iron or such other material as the Executive Officer may approve;
- (2) the drain shall so laid as to leave, between the top of the drain at its highest point and the surface of the ground beneath the building, a distance of not less than the full diameter of the drain;
- (3) the drain shall be laid in a direct line throughout the whole distance beneath the building;
- (4) the drain shall be completely embedded in, and covered with, good and solid concrete at least six inches thick all round;



*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rule 19.)*

- (5) adequate means for ventilating the drain shall be provided (where necessary) at each end of such portion thereof as lies beneath the building.

*Privies and urinals.*

Plans of privies  
and urinals to be  
submitted to  
Corporation.

19. (1) Every person who intends to construct any privy or urinal or to make any substantial additions to, or alterations in, any privy or urinal, shall send to the Corporation an application in such form (to be supplied to the applicant free of charge) as may be prescribed by the Corporation.

(2) Such application shall be accompanied by—

- (a) a site-plan, in triplicate unless the Corporation otherwise direct, drawn to a scale of not less than twenty feet to the inch and showing all surroundings to a distance of fifty feet from the privy or urinal, and
- (b) a detailed plan in triplicate of the privy or urinal with sections and cross-sections, drawn to a scale of four feet to the inch and showing—
  - (i) the means of ventilation,
  - (ii) (for connected-privies and connected-urinals only) the position and capacity of the reserve tank and flushing cistern,
  - (iii) (for connected-privies and connected-urinals only) the size and position of the anti-syphonage pipe, soil-pipe, ventilation-pipe, water-pipe, syphon-trap, and other appurtenances,
  - (iv) the ground-level and the floor-level,
  - (v) all pipes and other appurtenances in connection with the filtered water-supply, and
  - (vi) any other particulars which may be prescribed by the Corporation:

Provided that where any privy or urinal forms part of any building for which an application has been made under rule 52 of Schedule XVII, the particulars required under this rule may be attached to such application.

*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rules 20-23.)*

**20.** The Corporation may, for reasons to be recorded by them in writing and furnished to the applicant free of charge, refuse to grant permission to erect any service-privy or service-urinal which will, in their opinion, be a nuisance.

Power to Corporation to refuse to sanction service-privy or service-urinal which will be a nuisance.

**21.** (1) No service-privy or service-urinal exceeding eleven feet in height shall be placed in the space required by this Act to be left at the back of a building.

Regulation of site of service-privies and service-urinals.

(2) No service-privy or service-urinal situated in, or adjacent to, a building shall be placed at a distance of less than six feet from—

(i) any public building, or

(ii) any building which is, or is likely to be, used as a dwelling-place, or a kitchen, or as a place in which any person is, or is intended to be, employed in any manufacture, trade or business.

(3) No service-privy or service-urinal shall be constructed in any premises occupied by a masonry building, or, without the special sanction of the Corporation, in any other premises which are situated in a street which has been sewered and has an adequate unfiltered water-supply.

(4) Every service-privy and service-urinal shall be detached from the inhabited portion of any building.

**22.** (1) No service-privy, or service-urinal shall be placed on any upper floor of a building:

Power to Corporation to require substitution of connected-privies for service-privies and connected-urinals for service-urinals.

Provided that, if in any case the Corporation considers it impracticable or inexpedient to provide a connected-privy or a connected-urinal, they may, by written notice, authorize the owner of the building to erect a service-privy or a service-urinal, as the case may be.

(2) The Corporation may, by written notice, require the owner of any building to convert any service-privy into a connected-privy and any service-urinal into a connected-urinal.

**23.** (1) If there is no convenient access from a street to any service-privy or service-urinal, and if the Corporation consider it inexpedient to require that the privy or urinal be converted into a connected-privy or connected-urinal, as the case may be, they may, if they think fit, by written notice, require the owner of the privy or urinal to form a passage giving access thereto from a street.

Power to Corporation to require owner to provide access to service-privy or service-urinal from street.

[Ben. Act III]

*(Schedule XV.—Rules as to drains, privies and  
urinals.—Rules 24-26.)*

(2) Every notice served under sub-rule (1) shall require that such passage be formed at ground-level, be not less than four feet wide, and be provided with a suitable door, and shall inform the said owner that the passage may, at his option, be either open to the sky or covered in.

**Models and  
type-plans.**

**24.** Models and type-plans of privies and urinals approved by the Corporation, with estimates of the cost of constructing privies and urinals in accordance therewith, shall be kept in the municipal office, and shall be open to inspection by any person at all reasonable times without charge; but no person shall be bound to construct any privy or urinal in accordance with any such model or type-plan if such privy or urinal be constructed in accordance with the other rules contained in this schedule.

**25.** (1) A drain shall be provided for every service-privy and every service-urinal.

(2) Such drain shall be constructed of some impervious material and shall connect the floor of the privy or urinal—

- (a) with a drain communicating with a municipal sewer, or,
- (b) if permitted by the Corporation, with an impervious cesspool the contents of which can be removed to a municipal sewer either by hand or by flow after filtration.

**Floor.**

**26.** (1) The floor of every privy and every urinal shall,—

- (a) if the Executive Officer in any case so directs, be made of one of the following materials, to be selected by the owner of the privy or urinal, that is to say, glazed tiles, artificial stone or cement, or
- (b) if no such direction is given, be made of thoroughly well-burnt earthen tiles or bricks plastered (and not merely pointed) with cement, and
- (c) be in every part at a height of not less than six inches above the level of the surface of the ground adjoining the privy or urinal.

(2) The floor of every service-privy and every service-urinal shall have a fall or inclination of at least half an inch to the foot towards the drain prescribed by rule 25.

of 1923.]

*(Schedule XV.—Rules as to drains, privies and urinals.—Rules 27-30.)*

(3) The floor of every connected-privy and connected-urinal in which the opening of the pan is placed on the level of the floor shall have a fall or inclination towards the pan of at least half an inch to the foot.

**27.** The walls and the roof (if any) of every privy and every urinal shall be made of such materials as may be approved by the Corporation: Walls and roof.

Provided that—

- (a) in the case of service-privies and service-urinals, the entire surface of the walls below the platform shall either be rendered in cement or be made as prescribed in clause (a) or clause (b) of sub-rule (1) or rule 26;
- (b) in the case of connected-privies and connected-urinals the walls shall, up to a height of at least twelve inches above the platform, be made as prescribed in clause (a) or clause (b) of sub-rule (1) of rule 26.

**28.** The platform of every privy and every urinal shall either be plastered with cement or be made of some water-tight non-absorbent material. Platform.

**29.** Every privy and every urinal situated in, or adjacent to, a building shall have an opening, of not less than three square feet in area, in one of the walls of the privy or urinal, as near the top of the wall as may be practicable and communicating directly with the open air. Ventilation of privies and urinals in, or adjacent to, buildings.

**30.** (1) Every service-privy and service-urinal shall be provided with a movable receptacle for sewage. Service-privies and urinals to be provided with a movable receptacle for sewage.

(2) The following provisions shall have effect with regard to such privies, urinals and receptacles, namely:—

- (a) the space beneath the platform of the privy or urinal shall be of such dimensions as to admit of a movable receptacle for sewage, of a capacity not exceeding 2 cubic feet, being placed and fitted beneath the platform in such manner and position as will effectually prevent the deposit, otherwise than in such receptacle, of any sewage falling or thrown through the aperture in the platform;
- (b) the privy or urinal shall be so constructed as to afford adequate access to the said space for the purposes of cleansing it and of placing therein, and removing therefrom, a proper receptacle for sewage;

*(Schedule XV.—Rules as to drains, privies and urinals.—Rules 31-33.)*

- (c) the said receptacle shall be water-tight, and shall be made of metal, well-tarred earthenware or glazed stoneware, and shall be of such construction and shape as the Executive Officer may consider suitable;
- (d) the door of the opening for the insertion and removal of the said receptacle shall be so made as completely to cover the said opening.

Connected-privies and urinals to be separated from kitchens, etc.

**31.** Every connected-privy and connected-urinal shall be sufficiently separated, to the satisfaction of the Executive Officer, from all kitchens, habitable rooms and rooms in which any person is, or is intended to be, employed in any manufacture, trade or business.

Flushing of connected-privies and of urinals.

**32.** (1) Every connected-privy shall be provided with a suitable water-cistern, so arranged as—

- (a) to discharge direct into the pan of the privy not less than three gallons of water each time the cistern is used, and
- (b) to prevent water being drawn from the cistern for any other purpose.

(2) All waste-pipes and overflow-pipes attached to such cisterns shall terminate in the open air and be cut off from all direct communication with any drain.

(3) Every urinal shall be provided with adequate flushing arrangements to the satisfaction of the Chief Engineer.

(4) For the purpose of supplying water to the flushing cistern of a connected-privy or connected-urinal a reserve tank of such capacity as may be prescribed by the Corporation shall be provided at a height sufficient to supply the cistern with water, and in case the reserve tank is situated at such a height that it cannot be supplied direct from the street main, the owner of the premises shall provide a suitable pump and shall make all necessary arrangements to ensure a satisfactory supply of water to the reserve tank:

Provided that where the height of the building containing such privy or urinal does not exceed the number of feet for which the pressure of unfiltered water is required by or under this Act for that street, the provisions of this sub-rule shall not be put into operation.

Pan for connected privies and urinals.

**33.** Every connected-privy and connected-urinal shall be provided with a pan of such form and dimensions as may be approved by the Chief Engineer.

of 1923.]

(Schedule XV.—Rules as to drains, privies and urinals.—Rules 34-38.)

**34.** Every connected-privy and connected-urinal shall be provided with an air-tight water trap immediately below the pan. Water-trap.

**35.** (1) Every connected-privy and connected-urinal shall be provided with a syphon-trap which shall be proof against syphonage. Syphon-trap and anti-syphonage pipe.

(2) In all cases where a connected-privy or connected-urinal is more than one storey high, and anti-syphonage pipe having an internal diameter of not less than two inches shall be provided, and such pipe shall be carried independently to a height of at least two feet above the roof of the privy or urinal or the roof of the building in which such privy or urinal is situated.

**36.** No "container" or other similar fitting shall be placed under the pan of a connected-privy or connected-urinal; and no trap of the kind known as a "D trap" shall be used with any such privy or urinal. Prohibition of "containers" and "D traps."

**37.** (1) Every connected-privy and connected-urinal shall be provided with a soil-pipe for carrying sewage to a municipal sewer. Soil-pipe for connected-privies and connected urinals.

(2) Such soil-pipe shall be provided with air-tight joints, and, if it be placed above ground, shall be made of metal approved by the Executive Officer.

(3) Such soil-pipe shall, in addition to the trap prescribed by rule 34, be provided with a trap placed at some point between the privy or urinal and the sewer referred to in sub-rule (1).

(4) Such soil-pipe shall be ventilated by direct communication with the open air in the manner prescribed by the rules contained in this schedule; and, if the privy or urinal is situated in a building, the pipe shall be carried outside the building.

**38.** If any new building which is a privy or urinal is so constructed as to contravene any of the provisions of this schedule, the Corporation may (whether or not the offender be prosecuted under this Act), by written notice, require— Enforcement of the foregoing rules in the case of future privies or urinals.

(a) the occupier of the building to which the privy or urinal belongs, or

(b) (if the privy or urinal does not belong to a building) the owner of the land on which the privy or urinal stands,

to make such alterations as may be specified in the notice with the object of bringing the privy or urinal into conformity with the said provisions.

[See Act III]

(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rules 1, 2.)

## SCHEDULE XVI.

### RULES AS TO THE REGULATION, MAINTENANCE, PROTECTION AND REPAIR OF STREETS AND PUBLIC PLACES.

(See Sections 298, 364(8) and (9) and 488.)

#### *Regulation, maintenance and protection of streets and public places.*

Cutting of hedges and trees and power to Corporation to cause same to be cut.

1. (1) The Corporation shall cause any hedges belonging to them which border on any street or square to be trimmed or pruned to a height not exceeding seven feet, and shall cause any trees belonging to them which overhang any public street, so as to obstruct the same or cause damage thereto, to be cut and trimmed.

(2) The Corporation may, by written notice, require the owner or occupier of any land or building to trim or prune, to a height not exceeding seven feet, any hedges thereof bordering on any public street, or to cut and trim any tree appertaining to such land or building which overhangs any public street so as to obstruct the same or cause damage thereto.

(3) The Corporation, if for the public safety it appears to them necessary to do so, may cause any hedge or tree referred to in sub-rule (2) to be trimmed, pruned or cut without previously giving notice to the owner or occupier of the land or building as required by that sub-rule, and the Corporation may nevertheless require the expenses thereof to be paid by the said owner or occupier.

Regulation of verandahs, etc., projecting over

2. (1) No verandah supported by pillars resting on a street shall be erected, either as a new structure or otherwise,—

(a) in any street specified by the Corporation in that behalf, or

(b) in any street the width of which is less than fifty feet and the footpath of which is not less than eight feet in width.

(2) No roof shall be placed on any verandah supported as aforesaid, and no roof exceeding three feet in width shall be placed on any verandah projecting over a street and not so supported.

[1922.]

*(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rule 3.)*

(3) No person shall put up any verandah, balcony, sunshade, weather-frame or the like, to project over any street, without the written permission of the Corporation.

(4) Subject to the provisions of sub-rule (1) and sub-rule (2), the Corporation may, in their discretion, give written permission, on such conditions as they may think fit and on payment of such fees or rent as may be fixed from time to time by the Corporation, to owners or occupiers of buildings abutting on any street to put up verandahs, balconies, sunshades, weather-frames and the like, whether supported by pillars or not, to project from any building over such street.

(5) On the breach of any such condition, the Corporation may by written notice, require the owner or occupier of the said building to comply with such condition.

(6) At any time after permission has been given under sub-rule (4) to put up a verandah, balcony, sunshade, weather-frame or the like, to project from a building, the Corporation may, by written notice, require the owner or occupier of the building to remove such projection; and the owner or occupier shall be entitled to reasonable compensation out of the municipal fund on account of such removal:

Provided that no fee shall be charged for any verandah, balcony, weather-frame or the like when the same is situated in or over any street not vested in the Corporation.

3. (1) No person shall erect or maintain a sky-sign without the written permission of the Corporation. which shall not be granted unless the sign is so constructed and maintained as not to be dangerous to the public or likely to fall into any street or public place. Sky-signs.

(2) Every written permission granted under sub-rule (1) shall continue in force for not more than one year from the date on which it was granted, and may be revoked at any time by the Corporation if they consider that the sky-sign for which it was granted has become dangerous to the public or is likely to fall into a street or public place.



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(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rules 4-6.)

*Execution of works in public streets.*

Guarding and lighting when public street opened or broken up and speedy completion of work.

4. (1) When any drain in, or the pavement or surface of, any public street is opened or broken up for the purpose of carrying on any work, or when any public street is under construction, the Corporation shall cause the place to be fenced and guarded and to be sufficiently lighted during the night and shall take proper precautions for guarding against accident, by shoring up and protecting adjoining buildings;

and shall, with all convenient speed, complete the said work, fill in the ground, and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby.

(2) No person shall, without lawful authority, remove any fence or shoring-timber, or remove or extinguish any light, set up under sub-rule (1).

Power to Corporation to prevent or restrict traffic in street during progress of work.

5. (1) When any work referred to in rule 4 is being executed in any public street, or when any other work which may lawfully be done is being executed in any street, the Corporation may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Corporation shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein.

(3) No person shall, without lawful authority, infringe any such order or remove any such bar, chain or post.

*Naming of public streets and numbering of premises.*

Posting of street names.

6. (1) The Corporation shall from time to time cause to be put up or painted, in a durable manner, on a conspicuous part of some building, wall or place, at or near each end, corner or entrance of every public street, such name as the Corporation may from time to time determine under section 295, sub-section (2), as the name by which such street is to be known.

of 1923.]

*(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rules 7, 8.)*

(2) No person shall, without lawful authority, destroy, pull down, or deface any such name, or put up any name different from that put up by order of the Corporation.

7. (1) The Corporation shall from time to time cause all premises in or near each public street to be numbered separately, and shall cause their respective numbers to be affixed in conspicuous places outside such premises at or near the entrances thereto. Numbering of premises.

(2) No person shall, without lawful authority, destroy, pull down or deface any such number, and no person shall affix to any such premises a private number of the same design as such number.

8. The Corporation shall keep a register of all alterations made by them in the names of streets and in the numbers of the houses therein and such register shall be kept in such a form as to show the date of every such alteration and the name of the street and the number of the premises previous to such alteration, as well as the new name of the street and the new number of the premises. It shall be lawful for any person to inspect such register and to take a copy of any portion thereof upon payment of such reasonable fee as the Corporation may from time to time determine. Corporation to keep a register of premises.

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 1,2.)*

## SCHEDULE XVII.

### RULES AS TO THE USE OF BUILDING-SITES AND THE EXECUTION OF BUILDING-WORK.

[See sections 319, 330, 331, 363, 364 (10), 488, 494 and 495.]

Conditions as to use of building-sites.

1. No piece of land shall be used as a site for the erection of a building,—

- (1) if the building is to abut on a street, unless the site is of such a shape that the face of the building can be made parallel to the line of the street, or as nearly parallel to the said line as the Corporation may consider practicable; and,
- (2) if the site is within thirty feet of a tank, unless the owner takes, or satisfies the Corporation that he will take, such order as will prevent any risk of the drainage of the building passing into the tank; and,
- (3) if the site is a filled-up tank, or has been filled up with, or used for depositing, rubbish, offensive matter or sewage, unless the Corporation have caused the site to be examined and granted a certificate to the effect that it is, from sanitary and engineering points of view, fit to be built upon; and,
- (4) if the building to be erected is a public building, a dwelling-house or a hut intended for human habitation, unless the site is certified by the Corporation to be dry and well-drained, or unless the Corporation are satisfied that it is capable of being well-drained and that the owner will take the necessary steps to drain it.

Certificate as to correctness of plans of a previously existing building and fees therefor.

2. (1) Any person who intends to erect any building upon a site on which a building has been previously erected, whether before or after the commencement of this Act, may, before commencing to erect his intended building, cause to be prepared plans showing the extent of the previously existing building in its several parts

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 3.)

(or, in the event of such building having been taken down before the commencement of this Act, or having been accidentally destroyed, the best plans available under all the circumstances of the case), and may cause such plans to be submitted to the Corporation who shall (if reasonably satisfied with the evidence of their accuracy) certify the same; and such certificate shall for the purposes of these rules be taken to be conclusive evidence of the correctness of the plans.

(2) The Corporation, when granting a certificate under this rule, may charge such fees, not exceeding ten rupees for any one building, as they may think fit.

*Part II.—Buildings generally.*

3. ✓(1) If a building is situated at the side of a **Height.** street, no portion of the building, except open or balustraded parapets not more than four feet high, shall intersect any of a series of imaginary lines drawn across the street at an angle of forty-five degrees with the horizontal, such lines being drawn from the side of the street which is the more remote from the building in question, from a height of two feet above the centre of the street:

Provided as follows—

- (i) where the said street is joined at an angle by another street facing the building, or where the street in which the building is situated terminates in front of the building, the height of that portion of the building which is opposite the street facing it measured from two feet above the centre of the street, shall in the former case, not exceed the height which would be permissible if the building abutted on or were situated on the side of a street equal in width to the width of the street on which it abuts or on the side of which it is situated *plus* half the width of the street facing it, and in the latter case, the height of the building shall not exceed the height which would be permissible if the building abutted on or were situated on the side of a street one-and-a-half times the width of the street terminating in front of it;

(*Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 3.*)

- (ii) nothing herein contained shall affect the erection of a four-storeyed building abutting upon, or situated at the side of a street of not less than forty-five feet in width, if such building, including the parapet wall and the plinth, does not exceed fifty-six feet in height;
- (iii) nothing herein contained shall affect the erection of a building abutting upon, or situated at the side of, a street of not less than sixty feet in width, if such building does not exceed eighty feet in height; and
- ✓ (iv) no building exceeding eighty feet in height shall be erected without the special permission of the Corporation, who in granting such permission, may impose such conditions as they may think proper for the safety of the public and the safety and convenience of persons occupying the building.

*Explanation.*—If a building be placed at the edge of the street, its height, measured from two feet above the centre of the street, and excluding parapets as aforesaid, shall not exceed the average width of the street facing the site; but, if the building or one or more of its storeys be set back, the height of the building may be increased, subject to the condition that no portion of the building, after the height is increased intersects any of the aforesaid lines.

(2) In the case of a new building erected on any portion of the site of the whole or part of a building in existence at the commencement of this Act, the angle at which the lines referred to in sub-rule (1) are to be drawn shall be fifty-six-and-a-half degrees instead of forty-five degrees:

Provided as follows—

- (i) the height allowed under this sub-rule shall in no case exceed thirty-six feet, and
- (ii) except with the special permission of the Corporation, nothing contained in this sub-rule shall authorize the erection of a new building so as to make any portion of it higher than any building which at the commencement of this Act was standing on the same portion of the site.

of 1923.]

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 3.)*

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), the Corporation may, by order published in the <sup>1</sup>[*Official Gazette*], declare that, in any street or portion of a street, not less than twelve feet in width, which is specified in the order, the erection of two-storeyed buildings not exceeding twenty-eight feet in height excluding two feet for the plinth and excluding open or balustraded parapets not more than four feet high, will be permitted without complying with the requirements of those sub-rules.

(4) If a building is situated on a corner plot so as to abut upon more than one street, the narrower of such streets shall, for the purpose of regulating the height of the building, be deemed to be of the same width as the wider street to a distance of fifty-five feet from such wider street.

(5) Notwithstanding anything contained in sub-rules (1), (2) or (4),—

(a) a building of not more than one storey and not exceeding twelve feet in height (excluding two feet for the plinth) above the centre of the street, and

(b) if, in any street which is less than twelve feet in width, the owner of any building-site abutting on the street makes a free gift to the Corporation of all land comprised within such site, which falls within six feet of the centre line of such street, then a two-storeyed building not more than twenty-eight feet high,

may be erected without complying with the requirements of the said sub-rules.

(6) For the purposes of clause (b) of sub-rule (5) of this rule and of clause (b) of sub-rule (4) of rule 30—

(a) the Corporation may prescribe a centre line for any street which is less than twelve feet in width, and

(b) when such centre line has been prescribed, the side of the street shall, for the purposes of sub-rule (1), be deemed to be an imaginary line drawn six feet from such centre line.

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<sup>1</sup> See foot-note 1 on p. 329, *ante*.

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 4-7.)*

**Level of floor.**

**4.** The floor or lowest floor of every new building erected from the ground-level shall be constructed at such level as will admit of—

- (a) the construction of a drain sufficient for the effectual drainage of the building and placed at such level as will admit of the drainage being led into some municipal sewer at the time existing or projected, and
- (b) the provision of the requisite communication with some sewer into which the drainage may lawfully be discharged at a point in the upper half of such sewer or with some other means of drainage into which the drainage may lawfully be discharged.

**Provision of fire-escapes, stair cases and lift in certain buildings.**

**5. (1)** All public buildings and all buildings of the warehouse class, and where the Corporation deem it necessary, all buildings of four or more storeys, shall be provided with adequate means of escape in case of fire, to the satisfaction of the Corporation, and shall also be provided with such number of staircases as the Corporation may require.

(2) The Corporation may, by written notice, require the owner of a new building, more than sixty feet in height or comprising four or more storeys, erected after the commencement of this Act, to provide a lift or some other similar mechanical contrivance for carrying persons from one floor to another.

**Certain buildings not to be erected within six feet of a service-privy.**

**6.** No new public building or new building which is, or is likely to be used as a dwelling-place or a kitchen or as a place in which any person is, or is intended to be, employed in any manufacture, trade or business shall be erected within six feet of any service-privy or service-urinal.

**Prohibition of use of inflammable materials for roofs or external walls.**

**7. (1)** External roofs or walls of buildings shall not, after the commencement of this Act, be made of grass, leaves, mats, canvas or other inflammable materials.

(2) The Corporation may, by written notice, require the owner of any building situated within a distance of thirty feet from any other building, and having at the commencement of this Act an external roof or wall made of any such inflammable material, to remove or alter such roof or wall.

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*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 8-13.)*

(3) Sub-rules (1) and (2) shall not apply to bamboo shingle or wood or to any garden hut, orchid house, fernery or other similar structure within a compound, unless in any particular case the Corporation consider any such structure to be dangerous.

*Part III.—Masonry buildings generally.*

8. (1) Except with the sanction of the Corporation, the foundation of a masonry building shall rest on solid ground. Foundation.

(2) Except with the sanction of the Corporation, the spread of the foundation shall be such that the pressure on the soil, taking into account the load on the floors and terrace-roof (if any) referred to in rules 15 and 17, shall not be greater than one ton on the square foot.

(3) The levels of the foundation shall be such as the Corporation may consider satisfactory.

9. The plinth of a masonry building, except in the case of motor garages and coach-houses, shall be at least two feet above the level of the centre of the nearest street: Plinth.

Provided that the plinth of stables and cow-sheds, may be one foot above such level.

10. Every wall of a masonry building shall be constructed so as to rest upon proper footings having regular offsets and on each side of the wall a horizontal spread (equal on each such side) of not less than one-half the height of the footings, provided that when an adjoining wall interferes the footings may, subject to the provisions of rule 8, sub-rule (2), be omitted, where that wall adjoins. Footings for walls.

11. The outer walls of a masonry building shall be constructed of brick or some similar hard and incombustible substance. Outer walls.

12. All walls of a masonry building shall be properly bonded. Bonding of walls

13. (1) Every wall of a masonry building shall have a damp-proof course at the level of the ground floor. Damp-proof course.

(2) Such damp-proof course may consist of sheet-lead, asphalt, slates laid in cement, vitrified bricks or any other durable material impervious to moisture.



*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 14-18.)*

**Walls in building of more than one storey.**

**14.** If a masonry building exceeds one storey in height,—

(a) every wall shall be solidly put together with—

- (i) good cement, or
- (ii) good lime, or
- (iii) mortar compounded with good cement and sand or other suitable material, or
- (iv) mortar compounded with good lime and sand or other suitable material;

(b) the proportions of the materials forming such mortar shall be such as are approved by the Corporation;

(c) no part of any wall, other than a cornice or moulding, shall overhang any part of a wall underneath it; and

(d) every wall shall be of such thickness as the Corporation may consider necessary to ensure safety, regard being had to the height of the building, the materials of which it is constructed, and the purpose for which it is intended to use it.

**Floors.**

**15.** The floors of every masonry building shall be constructed to bear safely the maximum load to be carried, the allowance for live load not being less than fifty-six pounds on the square foot.

**Beams and girders.**

**16.** (1) All beams and girders in a masonry building shall be supported by a breadth of brick-work, stone or other solid substance sufficient to secure their stability.

(2) The bearing of a beam or girder on a wall shall not, without the sanction of the Corporation, be less than three-fourths of the thickness of the wall.

**Terrace-roofs.**

**17.** Terrace-roofs shall be constructed to withstand such load, not less than forty pounds on the square foot, in addition to their own weight, as may be specified by an order of the Corporation.

**Power to Corporation to regulate height of boundary wall.**

**18.** Notwithstanding anything contained in this schedule, a boundary wall may be erected on the boundary of a site to any height which the Corporation may think fit and proper in the special circumstances of the case.

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(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 19-21.)

19. Not less than three days before any person commences to erect a new building (other than a hut) the owner of the building shall send to the Corporation a written notice specifying the date on which it is proposed to commence the work.

Notice to be sent to Corporation before commencing work.

20. Within one month after the completion of the erection of a new building (other than a hut)—

Notice after completion of work.

- (a) the owner of the building shall send to the Corporation a written notice of the fact of such completion; and
- (b) the licensed building surveyor or other person (if any), employed under rule 55 to supervise the erection of the said building, shall sign and send to the Corporation a true certificate in the following form:—

“BUILDING COMPLETION CERTIFICATE.

(See Schedule XVII, r. 20.)

I do hereby certify that the following building work (*here insert full particulars of the work*) has been supervised by me and has been completed to my satisfaction; that the workmanship and the whole of the materials used are good; and that no provision of the Calcutta Municipal Act, 1923, or of the rules and by-laws made thereunder, and no requisition made, condition prescribed or order issued under the said Act, rules or by-laws has been transgressed in the course of the work.”

21. The Corporation may,—

- (a) at any time during the erection of any new building (other than a hut), or
- (b) within one month after the receipt of the notice or the certificate sent under rule 20 with respect to any such building, or
- (c) if no such notice or certificate has been received, at any time after the building has been erected,

Inspection of masonry buildings by Corporation.

inspect such building, without giving previous notice of their intention to do so.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 22, 23.)

Power to Corporation to take action after making inspection.

**22.** (1) If, on making any inspection under rule 21, the Corporation find that the building inspected is being or has been erected—

- (a) otherwise than in accordance with the plans thereof which they have approved, or
- (b) in such a way as to contravene any of the provisions of this Act or any rules or by-laws made thereunder,

they may, by written notice, require the owner of the building either—

- (i) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or
- (ii) to appear before them and show cause why such alterations should not be made.

(2) If such owner does not appear and show cause under clause (ii) of sub-rule (1), he shall be bound to make the alterations specified in such notice.

(3) If such owner appears and shows cause under clause (ii) of sub-rule (1), the Corporation shall, after hearing him, either—

- (a) cancel the notice issued under sub-rule (1), or
- (b) confirm the same, subject to such modifications (if any) as they may think fit.

*Part IV.—Dwelling-houses and other domestic buildings.*

Proportion of site for dwelling-house which may be built upon.

**23.** The total area covered by all the buildings on any site used for a dwelling-house shall not exceed two-thirds, or, in localities where the erection of only detached buildings is allowed, one-third, of the total area of the site, and the area not so covered shall form part of the site:

Provided that the Corporation may at any time permit an excess area not exceeding five *per cent.* of the total area of the site to be covered in the case of a detached building, where they are satisfied, for special reasons to be recorded in writing, that the convenience or amenity of the building will be substantially increased, if such excess area is permitted to be covered.

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(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 24, 25.)

**24.** (1) If two-thirds of any building-site are left vacant—

Dwelling-houses and out-offices, where two-thirds of site are left vacant.

- (a) the dwelling-house may be placed in any part of the site, but not (subject to the provisions of section 303 or section 309, as the case may be) so as to extend beyond any building-line prescribed under section 302 or section 308; and
- (b) servants' houses, stables and other out-offices within the area of the site shall not be of more than two storeys or exceed twenty-four feet in height or twenty feet in depth, and shall not be placed on more than two sides of the dwelling-house or within twenty-four feet of the dwelling-house.

(2) If two-thirds of a building-site are left vacant under sub-rule (1) no building or part of a building shall be erected so as to encroach upon the area so left vacant:

Provided that the Corporation may at any time permit an excess area not exceeding five *per cent.* of the total area of the site to be covered in the case of a detached building where they are satisfied, for special reasons to be recorded in writing, that the convenience or amenity of the building will be substantially increased, if such excess area is permitted to be covered.

**25.** Every room in a domestic building which is intended to be used as an inhabited room—

Size and ventilation of inhabited rooms.

- (a) shall be in every part not less than ten feet in height, measured from the floor to the underside of the beam on which the roof or ceiling rests;
- (b) shall have a clear superficial area of not less than eighty square feet;
- (c) shall have, for purposes of ventilation,—
  - (i) windows opening directly into the external air, or into an open verandah, and having an opening of not less than one-fifteenth of the floor area of the room, and

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 26-29.)*

- ✓ (ii) an aggregate opening of not less than one-seventh of the floor area of the room, to be provided by windows, or windows and doors, opening directly into the external air or into an open verandah; and

- (d) shall, if such room has a cubical area of three thousand cubic feet or less, be provided, for every six hundred cubic feet capacity or fraction thereof, with one or more ventilating openings aggregating not less than one-and-a-half square feet in area, near the ceiling and opening directly into the external air or into an open verandah:

Provided that the Corporation may, in their discretion, relax the provisions of clause (a) and clause (d).

Floor of  
inhabited  
room  
over stable,  
cattle-shed or  
cow-house.

26. Every room in a domestic building which is intended to be used as an inhabited room, and which is constructed over a stable, cattle-shed or cow-house, shall be separated from the stable, cattle-shed or cow-house by a floor of concrete or other impermeable material.

Lighting and  
ventilation of  
staircases.

27. In every domestic building constructed or adapted to be occupied in flats or tenements, the principal common staircase shall be adequately lighted and ventilated upon every storey.

Ground floor.

28. The ground floor of every domestic building shall be covered throughout, at the height of the plinth, with some impermeable material approved by the Corporation, unless such floor be supported on beams and has a free air-space beneath it.

Court-yard of  
dwelling-house.

29. (1) The Minimum superficial area of every court-yard of dwelling-house shall be one-fourth of the aggregate floor-area of the rooms and verandahs on the ground floor abutting on the court-yard:

Provided that, in determining the said aggregate floor-area,—

- (i) only one-half of the floor-area of such rooms and verandahs as abut on another court-yard or on the open space prescribed under rule 30, or rule 32, and

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*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 30.)*

- (ii) no portion of the floor area of such rooms and verandahs as abut on a street not less than twelve feet in width,

shall be taken into account.

(2) Any room which is separated only by an open verandah from the court-yard shall, for the purpose of this rule, be deemed to abut on such court-yard.

(3) The minimum width of every such court-yard shall be eight feet.

(4) No portion of any face of a dwelling-house abutting on such court-yard shall intersect any of a series of imaginary lines drawn across the court-yard from the opposite face of the house, at the level of the plinth, at an angle of sixty-eight degrees with the horizontal:

Provided that nothing contained in this sub-rule shall prevent the construction of four-storeyed buildings on two sides of a court-yard where the length of the court-yard opposite such buildings is not less than twenty feet and the width of such court-yard is not less than fifteen feet.

(5) For the purposes of sub-rule (4), the opposite face of the house shall be deemed to be a vertical plane drawn through the most projecting portion of such face excluding any cornice or moulding not exceeding eighteen inches.

(6) Notwithstanding anything contained in sub-rule (4), a dwelling-house abutting on a court-yard of which the greater dimension does not exceed twice the less dimension, shall be held to comply with this rule if, by reason of its abutting on a court-yard of the same area but square in shape, the building would comply with this rule.

**30.** (1) There shall be, at the back of every domestic building, an open space extending along the entire width of the building and forming part of the site thereof.

Open space  
in rear of  
building,  
regulating the  
rear height.

(2) The said space shall be of such width that any of a series of imaginary lines drawn across such space at an angle of sixty-three-and-a-half degrees with the horizontal, from points on a level with the plinth of the building and situated on that side of the said space which is furthest from the building, shall

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 30.)*

not intersect any portion (other than open or balustraded parapets not more than four feet in height) of the building:

Provided as follows—

- (i) the minimum width of such space shall be ten feet;
- (ii) in the case of three-storeyed buildings, the angle referred to in this rule shall be increased from sixty-three-and-a-half degrees to sixty-eight degrees; and
- (iii) in the case of any building in which there are both an outer and an inner court-yard, a minimum distance of six feet shall be permitted.

(3) If it is proposed to erect one or more buildings on the site of an existing building or if two or more buildings are proposed to be erected on any one site (whether or not such buildings are connected by means of verandahs or gangways or in any similar manner), the open space referred to in sub-rule (1) shall be provided at the back of each such building.

(4) This rule shall not apply in the case of—

- (a) a building the back of which abuts on a public square or street or a place dedicated to public use and not likely to be built upon not less than sixteen feet in width;
- (b) a building the back of which abuts on a public street less than sixteen feet in width, if the owner makes a free gift to the Corporation of all land comprised within the site of the building, which falls within eight feet of the centre line of such street as prescribed by the Corporation under rule 3, sub-rule (6); and
- (c) a building to which rule 24 applies:

Provided that, in cases (a) and (b), the height of the building shall, in accordance with the provisions of rule 3, be regulated by the width of the public square or street on which it abuts.

(5) For the purposes of this rule, the back of a building shall be deemed to be that face of the building which is furthest from any street at the side of which the building is situated:

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*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 31, 32.)*

Provided that, where a building is situated at the side of more than one street, the back of the building shall, unless the Corporation otherwise direct, be deemed to be that face of the building which is furthest from the widest of such streets.

**31.** If any person desires to erect a domestic building upon a site which is irregular or of such a nature that it is impracticable to provide an open space in the rear of the building of the dimensions prescribed by rule 30, the Corporation may relax the provisions of that rule:

Relaxation of rule 30 in certain cases.

Provided that—

- (a) such open space shall be left as the Corporation may consider practicable, having regard to all the circumstances of the case; and
- (b) not more than two-thirds of the total area of the site shall be occupied by buildings.

**32.** (1) Except in the case of buildings to which rule 24 applies, if either side of a domestic building is not attached to the adjacent building, and if such side does not abut on a public square or street which is not less than six feet in width, or on a private street or partition passage which, in the opinion of the Corporation, is likely always to be kept open to the sky and which is not less than eight feet in width,

Open space at sides of building.

there shall be between the buildings an open space extending along the entire length of such side and forming part of the side of the said domestic building:

Provided that attachment of any building to the adjacent building shall not be allowed (except with the permission of the Corporation) in areas declared for the purpose if either of the buildings is a dwelling-house.

(2) The minimum distance across such space from every part of the said domestic building to the boundary line of the land or building immediately opposite such part shall be—

- (a) six feet, if there is a building next to such boundary line or within two feet of it, or
- (b) four feet if there is an open space of two feet or more on the other side of such boundary line:



(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 33.)

Provided that where there is a public street by the side of the site which is less than six feet wide, the owner may, by giving to the Corporation free of charge such land as will make the street six feet wide, be exempted from leaving further side space under this rule.

(3) Notwithstanding anything contained in this rule, where a site adjacent to the site of a proposed building is not occupied by a masonry building situated within ten feet of the boundary line between the two sites and within twenty-four feet from the frontage of the street on which the two sites abut, the proposed building may, with the sanction of the Corporation, be erected along the said boundary line up to a depth of twenty-four feet from such street frontage, unless, in the opinion of the Corporation, there is any objection to any building which may be subsequently erected on the adjacent site being attached to the building so erected.

Court-yards and outward open spaces to be raised and kept open.

**33.** (1) Every court-yard of a building, and every open space prescribed by rule 30 or rule 32, shall be raised at least one foot above the level of the centre of the nearest street, so as to admit of easy drainage into the street.

(2) Every such court-yard and open space shall form part of the site of the building, shall be open to the sky throughout its entire area, and shall be kept accessible for the purpose of cleansing; and no structure shall be erected within or above, or so as to project over, the same:

Provided that—

- (a) a one-seated or two-seated connected-privy or a privy with a bathroom attached thereto or two connected privies, not exceeding forty square feet in floor-area in the aggregate, exclusive of walls, may be erected in the open space left under rule 30, sub-rule (2); and
- (b) such privy or privies with attached bathroom may have as many storeys over them as there are storeys in the house to which they belong, each of such storeys being connected with the main building by a gangway, or in the case of two separate privies two gangways or bridges, not more than three feet in width for each privy and not exceeding six feet in width in the aggregate.

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*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 34-39.)*

(3) The provisions of sub-rule (2) shall apply only to the minimum area prescribed under this schedule for any court-yard or open space referred to in the said sub-rule.

**34.** All court-yards in a domestic building, and all other open spaces therein not exceeding six feet in width, shall be paved with some impermeable substance and drained to the satisfaction of the Corporation.

Paving and draining of court-yards and open spaces.

**35.** Except with the permission of the Corporation, for the purpose of calculating the open space required to be left under rules 23, 24, 30 and 32, no space which falls within the alignment of a street or is included within the alignment of a projected public street shall be taken into account.

Space to be added to street not to be taken into account under rules 23, 24, 30 and 32.

**36.** No building shall at any time be erected on any open space prescribed under this schedule for a building and forming part of the site thereof, nor shall such open space be taken into account in determining the area of any open space required, under this schedule, for any other building.

Open space prescribed for one site not to be taken for another site.

**37.** No room other than a bathroom, privy or urinal shall be placed over a privy in a domestic building, and no privy shall be placed in a domestic building under any room other than a bathroom, privy or urinal.

Position of privies in a domestic building.

*Part V.—Buildings of the warehouse class.*

**38.** (1) In applying rule 3, sub-rule (1), to any building of the warehouse class situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under clause (d) of sub-section (1) of section 324, the said sub-rule shall be read as if fifty-six-and-a-half degrees were substituted for forty-five degrees.

Height of buildings of the warehouse class.

(2) Sub-rule (2) of rule 3 shall not apply to any such buildings.

**39.** The provisions of rules 29 to 36 as to domestic buildings shall have effect in the case of buildings of the warehouse class which are not situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under clause (d) of sub-section (1) of section 324.

Open spaces for buildings of the warehouse class.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 40-43.)

Floors of certain buildings of the warehouse class.

✓ 40. The floor of every building of the warehouse class intended to be used for the manufacture or storage of articles for human consumption shall be constructed of some impermeable material approved by the Corporation.

Additional open space for buildings of the warehouse class for loading or unloading carts.

41. (1) Every building of the warehouse class shall, in addition to any open space prescribed under rule 39, have attached thereto, for the accommodation and passage of carts used for the loading and unloading of goods, an open space, forming part of the site of the building, of such size as the Corporation may consider sufficient, regard being had to the dimension of the building and the nature and extent of the business to be carried on therein:

Provided that, if the Corporation consider that any court-yard, or any open space provided in pursuance of rule 39, is sufficient for the accommodation and passage of such carts, no separate space need be provided under this rule.

(2) Except with the permission of the Corporation no structure which would impede the passage of carts shall be erected within or above, or so as to project over any open space provided under this rule.

Part VI.—Public buildings.

Application of certain provisions of Part IV to public buildings.

42. (1) The provisions of rules 25, 26, 27, 28, 30, 31, 32, 34, 35 and 37, as to domestic buildings, shall have effect in the case of public buildings.

(2) The provisions of rules 23, 24 and 29, as to dwelling-houses, shall have effect in the case of any public building which is constructed, used or adapted to be used wholly or principally for human habitation, or as a school, college or other place of instruction.

Floors of incombustible or fire-resisting materials.

43. The floors of the lobbies, corridors, passages and landings of a public building shall be constructed of incombustible materials, the doors shall be constructed of fire-resisting materials, and the flights of stairs shall be constructed either of incombustible materials or of fire-resisting materials.

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(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 44, 45.)

44. The following materials shall, for the purposes of rule 43, be deemed to be incombustible, namely:—

Materials to be deemed incombustible.

- (a) brick-work constructed of good bricks, well-burnt, hard and sound, properly bonded and solidly put together with—
  - (i) good mortar compounded of good lime and sharp clean sand, hard clean broken brick, broken flint, grit or slag well pulverized, or
  - (ii) good cement mixed with any of the materials mentioned in sub-clause (i),
- (b) granite and other stone which is suitable for building purposes by reasons of its solidity and durability,
- (c) iron, steel and copper,
- (d) slate, tiles, bricks and terra-cotta, when used for coverings or corbels,
- (e) flag-stones when used for floors over arches, if not exposed on the underside and if not supported at the ends only,
- (f) concrete, composed of broken brick, stone chippings or selected slag and lime, cement or calcined gypsum—when the concrete is used for filling-in between joists of floors to a depth of not less than four inches, and
- (g) any combination of concrete, steel or iron or any other material approved in this behalf from time to time by the Executive Officer.

45. The following materials shall, for the purposes of rule 43, be deemed to be fire-resisting, but not incombustible, namely:—

Materials to be deemed to be fire-resisting but not incombustible.

- (a) *sal*, teak and other hard timber, when used for beams, or posts or in combination with iron, the timber and the iron (if any) being protected by plastering in cement or other incombustible or non-conducting external coating,
- (b) in the case of doors, *sal*, teak or other hard timber not less than one-and-a-half inches thick, and
- (c) in the case of staircases, *sal*, teak or other hard timber, the treads and risers being not less than one inch and-a-half thick.

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 46-51.)*

**Walls for staircases.**

**46.** The walls supporting or enclosing any staircase in a public building shall be of masonry and not less than ten inches thick.

**Uniformity in treads and risers in staircases.**

**47.** The treads and risers of each flight of stairs in a public building shall be of uniform width.

**Width of staircases, internal corridors and passage-ways.**

**48.** (1) No staircase, internal corridor or passage-way in a public building shall be less than six feet wide:

Provided that, where not more than two hundred persons are to be accommodated in any public building, any staircase, internal corridor or passage-way may be of any width not less than four feet six inches.

(2) Every staircase, internal corridor or passage-way in a public building, which communicates with any portion of the building intended for the accommodation of more than four hundred persons, shall be wider than six feet by six inches for every hundred persons over four hundred, subject to a maximum width of nine feet.

(3) Notwithstanding anything, contained in sub-rule (1) and sub-rule (2), instead of a single staircase, corridor or passage-way of the width prescribed by sub-rule (2), there may be two staircases, corridors or passage-ways, each being of a width equal to at least two-thirds of the width so prescribed.

**Division of wide staircase by hand-rail.**

**49.** If the width of any staircase in a public building is eight feet or more, the staircase shall be divided by a hand-rail.

**Separate means of exit from floors on different levels.**

**50.** If some of the persons accommodated in a public building are placed on a higher floor than others, separate means of exit, of the width prescribed by rule 48, sub-rules (1), (2) or (3), as the case may be, and communicating directly with a public street or an open space, shall be provided for each floor:

Provided that this rule shall not apply to a hotel or lodging-house, or to any public building which is used as a home, refuge or shelter.

**Doors and barriers to open outwards.**

**51.** All doors and barriers in a public building shall be made to open outwards, and no locks or bolts for closing the same from outside shall be affixed thereto.

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(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 52, 53.)

*Part VII.—Applications for permission to erect new buildings (other than huts).*

**52.** (1) Every person who intends to erect a new building (other than a hut) shall send to the Corporation an application for permission to execute the work, together with a site-plan of the land, a plan of the whole building, separate plans of each floor of the building, complete elevations and sections of the work and a specification of the work.

Application to Corporation for permission to erect a masonry new building.

(2) Every document referred to in sub-rule (1) shall contain the particulars and be prepared in the manner hereinafter in this part prescribed in this behalf.

**53.** (1) Every application made under rule 52 shall be written on a printed form (to be supplied by the Corporation free of charge), and shall state the position of the site, the number assigned to it in the assessment-book and its dimensions, the description of the building and its dimensions, and such other particulars as may be prescribed by the Corporation.

Particulars to be furnished in, and with, such application.

(2) The site-plan sent with such an application shall be drawn to a scale of not less than one-fiftieth of an inch to the foot, shall be sent in triplicate, and shall show—

- (a) the boundaries of the site and of any contiguous land belonging to the owner thereof;
- (b) the position of the site in relation to neighbouring streets;
- (c) the name of the street in which the building is proposed to be situated;
- (d) all existing buildings standing on the site;
- (e) the position of the building, and of all other buildings (if any) which the applicant intends to erect upon his contiguous land referred to in clause (a), in relation to—
  - (i) the boundaries of the site, and in a case where the site has been partitioned, the boundaries of the portion owned by the applicant and also of the portions owned by the other owners,
  - (ii) all adjacent streets, buildings and premises within a distance of forty feet of the site and of the contiguous land (if any) referred to in clause (a), and

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 53.)

- (iii) (if there is no street within a distance of forty feet of the site) the nearest existing street or some street projected under section 308 or sanctioned under section 314;
- (f) the means of access from the street to the building, and to all other buildings (if any) which the applicant intends to erect upon his contiguous land referred to in clause (a);
- (g) the position and the number of storeys of all other buildings within forty feet of the site;
- (h) the position, form and dimensions of kitchens, staircases, privies, urinals, drains, cesspools, stables, cattle-sheds, cow-houses, wells and other appurtenances of the building;
- (i) free passage or way in front of the building;
- (j) space to be left about the building to secure a free circulation of air, admission of light and access for scavenging purposes;
- (k) the width of the street (if any) in front, and of the street (if any) at the side or rear, of the building; and
- (l) such other particulars as may be prescribed by the Corporation.

*Explanation to clause (d).—*If it is intended to demolish or alter any existing building on the site, such building shall be particularly specified, and it shall be expressly stated in the aforesaid application that the applicant undertakes to demolish or alter the same as the case may be.

(3) The plans of the building and the elevations and sections accompanying such an application shall be properly coloured and neatly and accurately drawn to a scale of not less than one-eighth of an inch to the foot and shall be sent in triplicate; and the said plans shall show—

- (a) the levels and width of the foundation of the building;
- (b) the level of the lowest floor of the building; and
- (c) the level of all court-yards and open spaces, and the plinth-level of the building, with reference to the level at the centre of the nearest street.

**(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 54, 55.)**

(4) The specification accompanying such an application shall comprise full information as to the following particulars, namely—

- (i) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places and chimneys;
- (ii) the manner in which roof and house drainage and the surface drainage of land will be disposed of;
- (iii) the manner (if any) in which it is proposed to pave the court-yards and open spaces, and the slope to which the surface is to be made in each case;
- (iv) the means of access that will be available to scavengers to get to service-privies;
- (v) the purpose for which it is intended to use the building;
- (vi) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort,—the means of ingress and egress to and from such building; and
- (vii) such other particulars as may be prescribed by the Corporation.

*Explanation to clause (v).—If it is intended to use the building or any part thereof for any of the purposes specified in Schedule XIX, or as a stable-cattle shed or cow-house, the fact shall be expressly stated.*

**54.** The plans, elevations and sections referred to in rule 52 shall be signed clearly and in a prominent place by the owner of the building and by the licensed building surveyor who has prepared the same as required by section 323.

Signature of plans, elevations and sections.

**55.** (1) Every person who intends to erect a new building (other than a hut) which is likely in the opinion of the Corporation, to cost not less than fifty thousand rupees, or such other amount as may be fixed from time to time by the Corporation, shall employ a licensed building surveyor, or any other competent person who is approved by the Corporation, to supervise the erection of such building.

Necessary employment of licensed building surveyor or other competent person to supervise building.



*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 56.)*

(2) The name of the person to be so employed shall be stated in the application made, under rule 52, in respect of such building.

(3) If the person to be so employed is not a licensed building surveyor, the Corporation may, within seven days of the receipt of the said application, refuse to approve his employment, and may return the application for amendment;

and such application shall thereupon be deemed not to have been made until it has been resubmitted duly amended.

(4) If the person so employed dies or ceases to be so employed before the completion of the said building, the further erection of the same may be continued for a period of a fortnight, but shall then be suspended until—

- (a) a licensed building surveyor whose name shall forthwith be reported to the Corporation, or
- (b) any other competent person approved by the Corporation,

has been employed to supervise such erection.

**Formulation of  
requirements  
and objections.**

**56.** (1) All information and documents which it may be found necessary to require, and all objections which it may be found necessary to make before deciding whether permission to erect a new building (other than a hut) should be given, shall be respectively required and made in one requisition, and the applicant shall be apprised thereof at the earliest possible date.

(2) Within fifteen working days after the receipt of any application under rule 52 for permission to execute any work, the Corporation may require the applicant—

- (i) to furnish them with any information on matters referred to in that rule which has not already been given in the documents received thereunder, or with any document prescribed by that rule which has not been sent in; or
- (ii) to satisfy them in regard to any objections which may have been taken under these rules to the grant of permission to execute the work.

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 57, 58.)

(3) If any information or documents furnished under sub-rule (2) are, in the opinion of the Corporation, incomplete or defective, they may, within fifteen working days after the receipt of the same, require further information or documents to be furnished.

(4) If any requisition made under sub-rule (2) or sub-rule (3) is not complied with within three months, the application received under rule 52 shall be refused.

57. (1) Within fifteen days after the receipt of any application made under rule 52 for permission to execute any work, or of any information or documents or further information or documents required under this schedule, or within fifteen days after the Corporation have been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work,

Permission to execute work when to be given or refused by the Corporation.

the Corporation shall, by written order, either—

- (a) grant permission conditionally or unconditionally to execute the work, or
- (b) refuse, on one or more of the grounds mentioned in rule 59 or rule 63, as the case may be, to grant such permission.

(2) When the Corporation grant permission conditionally under clause (a), of sub-rule (1), they may in regard thereto impose such conditions, consistent with this Act, as they may think fit.

(3) Notwithstanding anything contained in sub-rules (1) and (2), in any case in which it appears to the Corporation that any public improvements which may render necessary the acquisition of the site of a proposed building or any part thereof are desirable and expedient, they may withhold sanction to the building plans submitted in respect of such building for a period not exceeding three months from the date of such submission.

58. If within the period prescribed by rule 57, the Corporation have neither granted nor refused to grant permission to execute any work, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or of any rules or by-laws made thereunder.

Remedy if Corporation delay grant or refusal of permission.

[Ben. Act 118.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 59-61.)

Grounds on which permission to erect masonry new building may be refused.

59. The only grounds on which permission to erect a new building (other than a hut) may be refused are the following, namely:—

(1) that the work, or any of the particulars comprised in the site-plan, building-plans, elevations, sections or specifications would contravene some specific provision of this Act or some specific order, rule or by-law made thereunder;

(2) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in this schedule;

(3) that, in the case of a new building (other than a hut) falling within the street alignment or building-line of a public street projected under section 63 of the Calcutta Improvement Act, 1911, the permission of the Chairman of the Board of Trustees for the Improvement of Calcutta has not been obtained;

Ben. Act  
V of 1911.

(4) that any of the documents referred to in rule 52 have not been signed as prescribed in rule 54;

(5) that any information or documents required by the Corporation under this schedule have not been duly furnished; or

(6) that the applicant has not satisfied the Corporation in regard to any objections which may have been taken under these rules to the grant of the said permission.

Signature of approved plans.

60. When the Corporation have given permission to execute any work, the approved plans of the work shall be signed by such officer and in such manner as they may direct.

Retention of plan and submission of fresh application, after refusal to permit execution of work.

61. When permission to erect a new building (other than a hut) is refused—

(a) the Corporation shall retain one copy of the plans submitted, and shall without charge furnish the applicant with their reasons for such refusal, in writing, and

(b) the applicant may at any time thereafter send to the Corporation a fresh application and fresh or modified documents under rule 52 framed with the object of meeting the objections for which such permission was refused.

[1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 62-64.)

**62.** Subject to the provisions of rule 58, the erection of a new building (other than a hut) shall not be commenced unless and until the Corporation have granted written permission for the execution of the work on an application sent to them under rule 52.

Work not to be commenced unless and until permission given.

59— Notwithstanding anything contained in rule

Special 1  
to Corporation to suspend or grant permission to erect a masonry building or convert huts, i.e., into a masonry building.

(a) if any street shown in the site-plan is an intended private street, the Corporation may, in their discretion, refuse to grant permission to erect a masonry building or to convert one or more huts or temporary structures into a masonry building until the street is commenced or completed, and

(b) the Corporation may, for special reasons grant permission to erect a masonry building, or to convert one or more huts or temporary structures into a masonry building, on any site without reference to its position in relation to any street.

**64.** (1) If the erection of any new building (other than a hut) is not commenced, and a substantial portion of it is not completed, within three years after the date on which permission was given to execute the work, the work shall not be commenced or continued until a fresh application has been made and a fresh permission granted under this schedule.

Lapse of permission, if not acted upon within three years, or, if granted before a certain date, except in certain circumstances.

(2) At any time before the expiry of three years from the date on which such permission was given, the person to whom it was granted may apply to the Corporation for a certificate that the building has been commenced and a substantial portion of it already completed; and the Corporation shall thereupon cause the said building to be inspected, and, if they consider that a substantial portion of it has been completed, they shall grant a certificate to that effect.

✓(3) If any masonry building, permission to erect which was granted before the commencement of this Act, is not wholly completed within three years from the commencement of this Act, the said permission shall be deemed to have lapsed, and any work done thereunder, after the said three years, shall be deemed to have been done without permission:

Provided that the Corporation may, for special reasons, extend the said period of three years.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 65-68.)

Power to Corporation to cancel permission on the ground of material misrepresentation by applicant.

65. If, at any time after permission to erect any masonry building has been given, the Corporation are satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the application made under rule 52, or in the plans, elevations, sections, or specifications submitted therewith in respect of such building, they may cancel such permission, and any work done thereunder shall be deemed to have been done without permission.

#### Part VIII.—Huts.

Continuous lines.

66. (1) Huts in a *bustee* shall be built in continuous lines, in accordance with an alignment to be prescribed by the Corporation and demarcated on the ground, after hearing the objections (if any) of the owner of the *bustee* and the owners of the huts affected by the alignment.

(2) If the Corporation are of opinion that huts in a *bustee* are likely to be erected hereafter on any vacant land they may, after hearing the objections (if any) of the owner of the land and the owners of the huts affected by the alignment,—

(a) prescribe alignments for huts on such land, and

(b) from time to time alter such alignments.

Distance between eaves and alignment.

67. When an alignment has been prescribed under rule 66, no hut shall be erected so that the distance measured from its eave to such alignment is less than six feet.

Use of spaces referred to in rule 67.

68. All spaces referred to in rule 67, between a hut and an alignment, shall remain private property, subject to a right in the Corporation to use them for the purposes of scavenging or for any of the other purposes of this Act:

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908, no such use shall, by reason of any lapse of time, be held to confer any right on any person so as prejudicially to affect the rights of the owner of the *bustee*. IX of 1908.

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 69-77.)

69. Notwithstanding anything contained in rule 66, or rule 67, huts in a *bustee* may, with the special sanction of the Corporation, be erected so as to form an open court-yard comprising at least one-fourth of the whole area occupied by the huts and court-yard:

Erection of huts in a *bustee* in court-yard formation.

Provided that no hut erected under this rule shall contain more than one storey.

70. Where huts other than huts in a *bustee* are erected so as to form a court-yard, the area of the court-yard in huts not in a *bustee* shall be not less than one-fourth of the area occupied by the huts and court-yard.

Area of court-yard in huts not in a *bustee*.

Page 513—

In rule 71 of Schedule XVII, for the word "measure" read "measured".

Space between huts.

[No. 15, dated the 14th October, 1941.]

no hut shall be placed at a greater distance than one hundred feet from the nearest part of a metalled and sewered street, unless there be a municipal or *bustee* drain at a distance of not more than twenty feet from the site of such hut.

Distance of huts from metalled and sewered street.

73. Except with the sanction of the Corporation, no portion of a hut shall be placed within six feet of a masonry building.

Distance between hut and masonry building.

Provided that this rule shall not preclude the erection of huts in the compound of a masonry building in any case where masonry out-offices would be permissible.

74. No hut used for human habitation shall be placed within six feet of a cow-house, cattle-shed or stable.

Distance between hut and cow-house, etc.

75. Every hut abutting on a street or passage, whether public or private, shall be constructed so as not to project over, or admit of water from the roof falling upon, or injuring, such street or passage.

Prohibition of projections or dropping of water over street or

76. No hut shall comprise more than two storeys or shall exceed twenty feet in height, measured from the floor level to the junction of the walls with the roof.

Height.

77. The floor-level of a hut shall be raised at least two feet above the level of the centre of the nearest street or passage, and the floor shall be paved with brick on edge, cement, concrete or some similar material approved by the Corporation:

Plinth.

[Sec. 113]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 78-80.)

Provided that the floor of a stable or cow-shed may be one foot above such level.

**78.** (1) The whole of at least one side of every room in a hut shall either be an external wall or abut on an open court-yard or an open verandah.

(2) Every room in a hut, which is intended to be used as an inhabited room, shall—

- (a) be provided with a doorway of not less than fifteen square feet in area;
- (b) be provided with a window or windows opening directly into the external air or into an open verandah, and having an opening of not less than one-fifteenth of the floor area of the room;
- (c) have a superficial area of not less than eighty square feet; and
- (d) have a height of not less than eight feet measured from the floor-level to the junction of the walls with the roof.

Court-yards.

**79.** (1) The court-yard (if any) of a hut shall be so raised that the upper surface shall be one foot above the level of the nearest street or passage, and shall be drained into the nearest drain.

(2) The width of such court-yard shall be not less than eight feet.

(3) Every such court-yard shall be paved with some impermeable material.

*Part IX.—Applications for permission to erect new buildings which are huts.*

**80.** (1) Every person who intends to erect a new building which is a hut on any land shall send to the Corporation—

- (a) an application for permission to execute the work,
- (b) a site-plan of the land,
- (c) plans and sections of the hut, and
- (d) a specification of the work.

(2) Every such application shall contain the particulars and be prepared in the manner prescribed in that behalf in this schedule.

Application to be sent, and particulars furnished, to Corporation by person intending to erect a hut.

**(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 81, 82.)**

and every such plan, section and specification shall

**Page 515—**

(1) *In sub-rule (3) of rule 81 of Schedule XVII, for "one-eight" read "one-eighth".*

(2) *In the Explanation to clause (iv), for "particular" read "particularly".*

Application for permission to erect a hut.

[No. 15, dated the 14th October, 1941.] or any part thereof, for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed, or cow-house, the fact shall be expressly stated in the said application.

(3) The plans sent with such an application shall be drawn to a scale of not less than one-eighth of an inch to the foot, shall include a site-plan drawn to a scale of fifty feet to the inch, shall be properly coloured, shall be sent in triplicate, and shall show—

- (i) the hut,
- (ii) the privy provided or to be provided for the use of occupants of the hut,
- (iii) the position and size of the doors and windows,
- (iv) all existing buildings standing on the site,
- (v) the means of access to the hut from the street or passage on which it abuts,
- (vi) the position of the hut in relation to all huts, streets, passages, privies and tanks within a distance of fifty feet from the site, and
- (vii) such other particulars as may be prescribed by the Corporation.

*Explanation to clause (iv).—If it is intended to demolish or alter any existing building on the site, such building shall be particularly specified and it shall be expressly stated in the aforesaid application referred to in sub-rule (1) that the applicant undertakes to demolish or alter the same, as the case may be.*

**82.** (1) The Corporation may, on receipt of an application under rule 80, require the applicant—

- (a) to furnish them with any information on matters referred to in rule 80 which has not already been given in the documents received thereunder, or with a proper site-plan as prescribed by that rule, or

Power to Corporation to require further information or a proper site-plan.



[**Gen. Act III**]

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 83-85.)*

- (b) to satisfy them in regard to any objections which may have been taken under these rules to the grant of permission to execute the work.

(2) If any information or plan required under sub-rule (1) is, in the opinion of the Corporation, incomplete or defective, they may require further information or a fresh plan to be furnished.

(3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within two months, the application received under rule 80 shall be refused.

**Power to Corporation to employ licensed building surveyor to prepare site-plan, etc., for hut.**

**83.** The Corporation may—

- (a) on the application of any person who intends to erect a new building which is a hut, and  
(b) on payment, by such person, of such fees as the Corporation may prescribe in that behalf,

employ a licensed building surveyor to prepare, in respect of such hut, the plans, sections and specifications prescribed by rule 80.

**Permission to execute work when to be given or refused.**

**84.** Within fourteen days after the receipt of any application made under rule 80 for permission to erect a new building which is a hut, or of any information or plan or further information or fresh plan required under this schedule, or within fourteen days after the Corporation have been satisfied that there are no objections which may lawfully be taken to the execution of the work, the Corporation shall, by written order, either grant such permission or refuse to grant the same on one or more of the grounds mentioned in rule 86.

**Remedy if Corporation delay grant or refusal of permission.**

**85.** If, within the period prescribed by rule 84, the Corporation have neither granted nor refused to grant permission to erect a new building which is a hut, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made thereunder.

[of 1923.]

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 86, 87.)*

**86.** The only grounds, on which permission to erect a new building which is a hut, may be refused are the following, namely:—

Grounds on which permission to erect a hut may be refused.

- (1) that the work would contravene some specific provision of this Act, or some specific order, rule or by-law made thereunder;
- (2) that the application for such permission does not contain the particulars or is not prepared in the manner, prescribed in this schedule;
- (3) that, in the case of a new building which is a hut falling within the street alignment or building-line of a public street projected under section 63 of the Calcutta Improvement Act, 1911, the permission of the Chairman of the Board of Trustees for the Improvement of Calcutta has not been obtained;
- (4) that any plan, section or specification has not been signed as prescribed by rule 80, sub-rule (2);
- (5) that any information or plan required by the Corporation under this schedule has not been duly furnished; or
- (6) that the applicant has not satisfied the Corporation in regard to any objections which may have been taken under these rules to the grant of the said permission.

Ben. Act V  
of 1911.

**87.** When permission to erect a new building which is a hut is refused,—

Retention of plans, and submission of fresh application, after refusal of permission to erect a hut.

- (a) the Corporation shall retain one copy of each of the plans, and shall without charge furnish the applicant with their reasons for such refusal in writing, and
- (b) the applicant may at any time send to the Corporation a fresh application and a fresh or modified plan under rule 80 framed with the object of meeting the objections for which such permission was refused.

[

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 88-91.)*

Works not to be  
unless and until  
permission given.

**88.** (1) Subject to the provisions of rule 85, the erection of a new building which is a hut shall not be commenced unless and until the Corporation have granted written permission for the erection.

**Page 518—**

Strike out sub-rule (2) of rule 88 of Schedule XVII and insert the following note, namely :—

(Repealed by West Ben. Act XIX of 1949, section 3 and the Second Schedule.)

[No. 44, dated the 2nd August, 1949.]

... deemed to have been done without permission.

Lapse of permission, if not acted upon within six months.

**89.** If the erection of any new building which is a hut is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this schedule.

*Part X.—Application of rules in this schedule to alterations of, and additions to, buildings.*

Relaxation of rule 3.

**90.** In applying rule 3 in the case of an alteration of, or addition to, any building, the angle at which the lines referred to in sub-rule (1) of that rule are to be drawn shall be fifty-six-and-a-half degrees instead of forty-five degrees :

Provided that nothing contained in this rule shall authorise any addition to a building which would make it higher than any building which, at the commencement of this Act, was standing on the same portion of the site unless it is otherwise permissible under this schedule.

Applicability of rule 30 to alterations and additions above the ground-floor.

**91.** Rule 30 shall apply to alterations of, or additions to, any domestic building, public building or building of the warehouse class [not situated in locality in which the erection of buildings of the warehouse class is allowed by declaration under clause (d) of sub-section (1) of section 324] above the ground-floor, even though the open space, required under the said rule has not been left on the ground-

of 1923.]

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 92.)*

**92.** (1) Rules 52 to 65, or rules 80 to 89, as the case may be, shall not be applied in the case of any alteration of, or addition to, a building unless one or more of the following works is or are undertaken, namely,—

Restriction on application of rules 52 to 65, or 80 to 89.

- (a) the construction or reconstruction of a roof or an external or party wall,
- (b) any repairs to the building which involve the reconstruction of—
  - (i) a masonry wall,
  - (ii) the floor of a room (excluding the ground-floor),
  - (iii) a lift-shaft, or
  - (iv) a chimney,

after the same has been entirely or in great part demolished,

- (c) the closing of any door or window in an external wall,
- (d) the construction of an internal wall or partition,
- (e) any other alteration of the internal arrangements of a building which affects an alteration of its court-yard or court-yards or its drainage, ventilation or sanitary arrangements, or which affects its security,
- (f) the addition of any building, room, outhouse or other structure,
- (g) the roofing of any space between one or more walls and buildings,
- (h) the conversion into more than one place for human habitation of a building originally constructed as one such place,
- (i) the conversion of two or more places of human habitation into a greater number of such places, or
- (j) the alteration of a building for the purpose of effecting a partition amongst joint owners.

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 93, 94.)*

(2) In the case referred to in clause (g) of sub-rule (1), the said rules 52 to 65, or rules 80 to 89, as the case may be, shall apply only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings.

Grant to provisional permission to proceed with work in cases of urgency.

93. (1) If, in any case of urgency arising from causes beyond his own control, any person desires to undertake without delay any of the works referred to in rule 92, he may send to the Corporation an application for provisional permission to proceed with the work.

(2) Such application shall contain an explanation of the urgency and a general description of the work proposed to be undertaken.

(3) Within a period of three days after the receipt of any such application, the Corporation shall, by written order, either grant or refuse to grant provisional permission to proceed with the work.

(4) If, within the said period of three days, the Corporation have neither granted nor refused to grant such provisional permission, the same shall be deemed to have been granted and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or of any rule or by-law made thereunder.

(5) Whenever such provisional permission is granted, and in any case provided for by sub-rule (4), the applicant shall, within fifteen days, send to the Corporation a regular application for permission to execute the work; and, if he fails to do so, the provisional permission shall be deemed to be withdrawn.

Power of Corporation to relax certain rules as provided under section 331.

94. (1) Notwithstanding anything contained in this schedule, but subject to the provisions of section 331, the Corporation may at any time, in dealing with any application to erect a new building as defined in sub-clauses (b), (c) or (d) of clause (46) of section 3 or to add to, alter, or do any other work referred to in section 330 to, any building erected before the first day of April, 1900, relax, for special reasons to be recorded in writing, the following rules in this schedule in the manner and circumstances specified hereunder, namely:—

(a) Rules 30 and 32 may be relaxed so as to prevent the demolition of any material part of any

of 1923.]

*(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 94.)*

masonry building existing on the space required to be kept open under the said rules :

Provided that—

- (i) the new building conforms to the other rules of this schedule ; and
  - (ii) in no case shall the height or extent of the buildings on the said space be increased or added to, unless this is otherwise permissible under the said rules.
- (b) Rule 29 may be relaxed, provided that the building conforms with the provisions of either rule 23 or rule 30.

(2) Notwithstanding anything contained in this schedule, but subject to the provisions of section 331, the Corporation may at any time, in dealing with an application to add to, alter, or do any work referred to in section 330 to, any building erected before the first day of April, 1900, relax, for special reasons to be recorded in writing, rule 23, provided that some substantial increase is nevertheless made in the area of the open space belonging to the premises and already forming a part of the site.

*(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rules 1-3.)*

SCHEDULE XVIII.

RULES FOR THE INSPECTION AND REGULATION OF  
LAND AND BUILDINGS.

[See sections 1364 (10), 380, 384 and 488.]

Power to inspect premises for sanitary purposes.

1. (1) The Corporation may cause any building or other premises to be inspected for the purpose of ascertaining the sanitary condition thereof.

(2) If the Corporation have reason to believe that any building is used as a public lodging-house or is let out in rooms to twenty-five or more lodgers, such inspection may be made at any time by day or by night:

Provided that no such inspection shall be made by night except by an officer specially authorized by the Health Officer in that behalf.

Power to Corporation to require cleansing and lime-washing of building.

2. If it appears to the Corporation necessary for sanitary reasons so to do, they may, by written notice, require the owner or occupier of any building inspected under rule 1 to cause the same or any portion thereof to be lime-washed or otherwise cleansed, either externally or internally or both externally and internally.

Power to Corporation to require owner to secure, enclose, cleanse, or clear land or building which is untenanted, filthy or a nuisance.

3. If any land or building—

- (a) by reason of abandonment or disputed ownership or for any other reason, remains untenanted and thereby becomes a resort of idle and disorderly persons, or
- (b) is in a filthy or unwholesome state, or
- (c) is complained of by any two or more of the persons residing in its neighbourhood as a nuisance,

the Corporation, after due inquiry, may give written notice to the owner or to any person who is known or believed to claim to be the owner,

and shall also affix a copy of the said notice on the door of the building or on some conspicuous part of the land, as the case may be,

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<sup>1</sup>Reference to section "364 (10)" was substituted for reference to section "364 (11)" by s. 11 of the Calcutta Municipal (Amendment) Act, 1930 (Ben. Act IV of 1930).

of 11

*(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rules 4-6.)*

requiring the said owner or any person who is known or believed to claim to be the owner properly to secure, enclose, cleanse or clear the same or otherwise abate the nuisance.

4. (1) If any wall or building, or anything affixed thereto, be deemed by the Corporation to be in a ruinous state, or likely to fall, or to be in any way dangerous, they shall forthwith cause a written notice to be served on the owner and also to be put on some conspicuous part of the wall or building or served on the occupier (if any) of the building, requiring such owner or occupier, forthwith to demolish, repair or secure such wall, building or thing as the case may require.

Power to Corporation to demolish, repair or secure wall, building or fixture in a ruinous state, etc.

(2) The Corporation may also, if it appears to them to be necessary to do so, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building, for the safety of the public or the inmates thereof; and may also, after giving them such notice as the Corporation may think necessary, require the inmates of the building to vacate it.

(3) The provisions of this Act and of any rules or by-laws made thereunder relating to buildings shall apply to any work done in pursuance, or in consequence, of a notice issued under sub-rule (1).

5. If any building, or any part of a building, be demolished by the Corporation under section 510, in pursuance of a notice issued under rule 4, they may sell the materials thereof and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, restore to the owner any surplus arising from such sale.

Power to Corporation to sell materials of buildings demolished in pursuance of notice issued under rule 4.

6. (1) Whenever the Corporation consider—

(a) that any building is, by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation, or by reason of the impracticability of cleansing attended with risk to the health of the occupiers thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health, or

Further powers to Corporation with reference to insanitary or congested buildings.



*(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rule 7.)*

- (b) that any block of buildings is, for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid,

they may cause a written notice to be fixed to some conspicuous part of the building or block requiring the owners or occupiers thereof, or, at the option of the Corporation, the owners of the land occupied by such building or block, to execute such works or take such measures as the Corporation may deem necessary for the prevention of such risk.

(2) Where any building, or part thereof, in respect of which a notice has been issued under sub-rule (1), has been demolished in pursuance of an order made by a Magistrate under section 364, the Corporation shall pay reasonable compensation to the owner thereof.

7. (1) When—

- (a) any well, pool, ditch, tank, pond, pit or marshy or undrained ground, or  
 (b) any cistern, reservoir or water-butt or any other receptacle or place where water is stored or accumulates, or  
 (c) any waste or stagnant water, whether within any private enclosure or not,

appears to the Corporation to be or to be likely to become injurious to health or offensive to the neighbourhood or in any other respect a nuisance, they may, by written notice, require the owner or occupier of the land or building to which such well, pool, ditch, tank, pond, pit, ground, cistern, reservoir, water-butt, receptacle, place or water pertains,

to cleanse or to fill up the same with suitable material or to drain off or remove water therefrom or to take such other order therewith as the Corporation may deem necessary.

(2) Where, in the opinion of the Health Officer, such well, pool, ditch, tank, pond, pit, ground, cistern, reservoir, water-butt, receptacle, place or water is or is likely to become a breeding place for mosquitoes, he may enter upon the premises to which it pertains and take such steps as he thinks proper to cleanse the same.

(3) If the Corporation, in exercise of the powers conferred by section 510, execute any work referred to in a notice issued under sub-rule (1), and if the person

Power to  
Corporation to  
direct the filling  
up, etc., of  
unwholesome  
wells, pools,  
etc.

*(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rules 8, 9.)*

liable to pay the expenses of such work fails to pay the same, the Corporation may, until such expenses are paid,—

- (i) lease any part of the land used in connection with the said well, pool, ditch, tank, pond, pit, cistern, reservoir, water-butt, receptacle, place or water, or any part of the said ground, as the case may be, or
- (ii) ~~retain possession of the same.~~ or the site there-

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In sub-rule (4) of rule 7 of Schedule XVIII, <sup>f</sup> for "country" read "contrary". <sub>e</sub>

[No. 15, dated the 14th October, 1941.]

8. On receipt of a written report from the Health Officer of the existence of a serious nuisance likely to affect the public health or to prove offensive to the neighbourhood, the Executive Officer may take immediate action for the abatement or removal of such nuisance.

Power to Executive Officer to take action in case of a serious nuisance affecting the public health.

9. (1) The Corporation may, by a general order, or by an order to affect such portion of Calcutta as may be specified therein prohibit—

Power to Corporation to regulate excavations.

- (a) the making of excavations for the purpose of taking earth therefrom, or of storing rubbish or offensive matter therein, and
- (b) the digging of cesspools, tanks, ponds, wells or pits, without the special permission of the Corporation.

(2) Every such order shall be published in the <sup>1</sup>[*Official Gazette*.]

(3) No person shall make any excavation referred to in clause (a) of sub-rule (1), or dig any cesspool, tank, pond, well or pit, in contravention of any such order.

(4) If any such excavation, cesspool, tank, pond, well or pit is made or dug after the publication of any such order and without the permission required thereby, the Corporation may, by written notice, require the owner or occupier of the land on which the same is made or dug to fill it up with earth or other material approved of by the Corporation.

<sup>1</sup>See foot-note 1 on p. 329, ante.

*The Calcutta Municipal Act, 1923.*

[*Ben. Act 1923*]

*(Schedule XIX.—Certain purposes for which premises may not be used without a license.)*

**SCHEDULE XIX.<sup>1</sup>**

**CERTAIN PURPOSES FOR WHICH PREMISES MAY NOT BE  
USED WITHOUT A LICENSE.**

*[See sections 386, 389, 494 and 495, and Schedule  
XVII, rules 53 (4) and 81 (2).]*

- (1) Casting metals.
- (2) Manufacturing bricks, pottery or tiles.
- (3) As a knacker's yard.
- (4) As a hide godown or hide screw-house.
- (5) As a manufactory or place of business from which offensive or unwholesome smells, fumes or dust arise.
- (6) As a depôt for hay, straw, wood, coal, coke, waste paper or rags.
- (7) Packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, namely:—

cloths or threads in	pottery,
indigo or other	
colours,	

paper,

silk.

<sup>1</sup>Sub-section (1) of section 483 authorises alteration of, addition to or cancellation of any part of, or of any rule contained in, any schedule to this Act except Schedule I. This Schedule XIX has been amended in accordance with the notifications issued and rules published under these powers up to the 31st December, 1937.

of 1923.]

*(Schedule XIX.—Certain purposes for which premises may not be used without a license.)*

(8) Storing, packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, namely:—

blasting powder,  
 blood,  
 bones,  
 brass,  
 candles,  
 catgut,  
 chemical preparations,  
 china grass,  
 cocoanut fibre,  
 cotton (other than  
     cotton pressed into  
     bales), or cotton  
     refuse or seed,  
 dal,  
 dammer (resin or  
     rosin),  
 dynamite,  
 fat (edible or non-  
     edible),  
 fins,  
 fireworks,  
 fish,  
 flax,  
 flour,  
 fulminate of mercury,  
 gas,  
 glue,  
 grain,  
 gram,  
 ground-nut,  
 gun-cotton,  
 gun-powder,  
 gur,  
 hair,  
 hemp,  
 hides,  
 hoofs,  
 horns,  
 iron,  
 jute,

kaslin,  
 lampblack,  
 leather,  
 lime,  
 manure,  
 matches for lighting,  
 meat,  
 molasses,  
 mustard-seeds,  
 nitro-glycerine,  
 offal,  
 oil (edible or non-  
     edible),  
 oil-cloth,  
 paint,  
 pakra seed,  
 pea,  
 pitch,  
 rags,  
 rice,  
 rosin,  
 saltpetre,  
 skins,  
 soap,  
 soap-stone,  
 spirits,  
 steel,  
 sugar,  
 sulphur,  
 surki,  
 tallow,  
 tar,  
 tin,  
 tobacco,  
 tow,  
 turpentine,  
 varnish,  
 verdigris,  
 waste paper,  
 wool.

## (Schedule XX.—Form of Certificate.)

## SCHEDULE XX.

## FORM OF CERTIFICATE.

(See sections 423 and 425.)

To<sup>1</sup>

I, the undersigned, public analyst for the  
do hereby certify that I received on the  
day of 19 , from  
sample of for analysis (which then  
weighed<sup>2</sup> ) and have analysed the same  
and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of

*Observations.*<sup>4</sup>

Signed this day 19 .

A.B.

at

<sup>1</sup>Here insert the name of the person submitting the article for analysis.

<sup>2</sup>Here insert the name of the person delivering the sample. If the sample is received by post or by railway, entry should be made accordingly.

<sup>3</sup>When the article cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

<sup>4</sup>Here the analyst may insert, at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable, or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether it was in excess of what is ordinary or otherwise.

*Note.*—In the case of a certificate regarding milk, butter or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

## REGISTRATION OF BIRTHS.

(See sections 450 and 451.)

**19**

*Births in the district of*

1	Serial number.
2	Date of birth.
3	Place of birth.
4	Nationality or caste.
5	Name, if any.
6	Sex.
7	Name of father.
8	Profession of father.
9	Signature, description and residence of informant.
10	Date of registration.
11	Signature of Registrar.



of 1923.]

*(Schedule XXIII.—Form of notice to be issued on yellow paper and affixed on premises when other means of service not available.)*

SCHEDULE XXIII.

FORM OF NOTICE TO BE ISSUED ON YELLOW PAPER AND  
AFFIXED ON PREMISES WHEN OTHER MEANS OF  
SERVICE NOT AVAILABLE.

*(See sections 504 and 505.)*

To *(name and address)*

*[or, to the owner or occupier of (number of building or description of land and number of premises in assessment-book).]*

Take notice that a bill *(or, as the case may be)* has been issued against you to the following effect *(state the substance of the document)* and that you are required to *(state the requirement as mentioned in the document)*.

Dated this                      day of

*(Signature of municipal officer  
or other person issuing the notice.)*





**Bengal Act VII of 1923.**  
**(The Bengal Aerial Ropeways Act, 1923.)**

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3. Application for concession.
4. Contents of application.
5. Preliminary investigations.

*Orders authorising the construction of Aerial Ropeways for Public Traffic.*

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7. Final order.
8. Cessation of powers given by an order.
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*Inspection of Aerial Ropeways for Public Traffic.*

10. Inspection of aerial ropeway before opening.
11. Appointment and duties of Inspectors.
12. Powers of Inspectors.
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- 23. Power of removal of aerial ropeway on cessation of promoter's powers.

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- 42. Power of Provincial Government to make rules.

# Bengal Act VII of 1923.

## (The Bengal Aerial Ropeways Act, 1923)<sup>1</sup>.

(29th August 1923.)

*An Act to authorise, facilitate and regulate the construction and working of aerial ropeways in Bengal.*

WHEREAS it is expedient to authorise, facilitate and regulate the construction and working of aerial ropeways in Bengal; Preamble.

And whereas the previous sanction of the Governor General has been obtained under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act;

6 & 6, Geo. V, c. 61; 6 & 7, Geo. V, c. 37; 9 & 10, Geo. V, c. 101.

It is hereby enacted as follows:—

### CHAPTER I.

#### *Preliminary.*

1. (1) This Act may be called the Bengal Aerial Ropeways Act, 1923;

Short title, local extent and commencement.

(2) It extends to the whole of Bengal, except the Hill-tracts of Chittagong; and

(3) It shall come into force on such date<sup>2</sup> as the<sup>3</sup> [Provincial Government] may, by notification in the<sup>4</sup> [Official Gazette], direct:

Provided that it shall come into operation in the Darjeeling district only on such date and subject to

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1923, Pt. IV, p. 234 and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1923, Vol. XI, No. 5, pp. 17—18 and p. 377, and Vol. XII, pp 41—54.

<sup>2</sup>The Act came into force in the Province of Bengal except the Darjeeling district on the 1st April, 1928—*vide* Notification No. 9R., dated the 12th March, 1928, published in the *Calcutta Gazette*, 1928, Pt. I, p. 511.

The Act came into force in the district of Darjeeling on the 1st August, 1928—*vide* Notification No. 12278E. A., dated the 18th July, 1928, published in the *Calcutta Gazette*, 1928, Pt. I, p. 1593.

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>These words were substituted for the words "*Calcutta Gazette*" *ibid.*

## (Chapter I.—Preliminary.—Sec. 2.)

such exceptions and modifications as the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], direct.

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) "aerial ropeway" means an aerial ropeway (or any portion thereof) for the carriage of passengers, animals or goods, and includes all posts, ropes, carriers, stations, offices, warehouses, workshops, machinery and other works used for the purposes of, or in connection with, and all land appurtenant to, such aerial ropeway;
- (2) "carrier" means any vehicle or receptacle hung or suspended from, or hauled by, a rope and used for the carriage of passengers, animals or goods or for any other purpose in connection with the working of an aerial ropeway;
- (3) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the <sup>3</sup>[Provincial Government] to discharge the functions of a Collector under this Act;
- (4) "Inspector" means an Inspector of aerial ropeways appointed under this Act;
- (5) "local authority" means a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund, and also includes a Local Board;
- (6) "order" means an order authorising the construction of an aerial ropeway under this Act;
- (7) "post" means a post, trestle, standard, strut, stay or other contrivance or part of a contrivance for carrying, suspending or supporting a rope;
- (8) "prescribed" means prescribed by rules made by the <sup>3</sup>[Provincial Government] under section 42;

<sup>1</sup>These words were substituted for the words "Governor in Council" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 4 on p. 535, *ante*.

<sup>3</sup>See foot-note 3 on p. 535, *ante*.

**(Chapter II.—Aerial Ropeways for Public Traffic.—  
Sec. 3.)**

(9) “promoter” means—

- (i) the <sup>1</sup>[Provincial Government],
- (ii) a local authority,
- (iii) any person,
- (iv) any company incorporated under the Indian Companies Act, 1913, or
- (v) any railway company as defined in the Indian Railways Act, 1890,

VII of  
1913.

IX of 1890.

in whose favour an order has been made under section 7 or under section 28, or on whom the rights and liabilities conferred and imposed on the promoter by this Act, and by rules and orders made under this Act as to the construction, maintenance and use of the aerial ropeway, have devolved or have been imposed by section 40;

(10) “rate” includes any fare, charge or other payment for the carriage of passengers, animals or goods on an aerial ropeway; and

(11) “rope” includes any cable, wire, rail or way, whether flexible or rigid, for suspending, carrying or hauling a carrier, if any part of such cable, wire, rail or way is carried overhead and is suspended from, or supported on, posts.

## CHAPTER II.

### Aerial Ropeways for Public Traffic.

#### *Procedure and Preliminary Investigations.*

3. Every application by an intending promoter other than the <sup>1</sup>[Provincial Government] for permission to undertake the necessary preliminary investigations in regard to a proposed aerial ropeway for the public carriage of passengers, animals or goods shall be submitted to the <sup>1</sup>[Provincial Government].

Application for  
concession.

<sup>1</sup>See foot-note 3 on p. 535, ante.

(*Chapter II.—Aerial Ropeways for Public Traffic.—*  
*Secs. 4-6.*)

Contents of  
application.

4. Every such application shall include—

- (a) a description of the undertaking and of the route to be followed by the proposed aerial ropeway;
- (b) a description of the system of construction and management and of the advantages to the community to be expected from the ropeway;
- (c) an estimate of the cost of construction thereof;
- (d) a statement of the estimated working expenses and profits in respect thereof;
- (e) a statement of the maximum and minimum rates which it is proposed to charge;
- (f) such maps, plans, sections and drawings in connection therewith as the <sup>1</sup>[Provincial Government] may require in order to form an idea of the proposal.

Preliminary  
investigations.

5. Subject to the provisions of this Act, and of section 4 of the Land Acquisition Act, 1894, the <sup>1</sup>[Provincial Government] may, at their discretion, accord sanction to the intending promoter to make such surveys as may be necessary, and require him to submit such detailed estimates, plans sections and specifications and such further information as they may deem necessary for the full consideration of the proposal.

I of 1894.

The intending promoter shall not be entitled to claim any compensation <sup>2</sup>[from the Crown] for any expense incurred under this section in the event of his application being ultimately refused.

*Orders authorising the Construction of Aerial Ropeways  
for Public Traffic.*

Order  
authorising  
construction and  
contents of  
such order.

6. (1) The <sup>1</sup>[Provincial Government] may, on application made by any intending promoter, and after due consideration of the details supplied in accordance with section 5, publish in the <sup>2</sup>[*Official Gazette*] a draft of the proposed order authorising the construction by, or on behalf of, such promoter, subject to such restrictions and conditions as the <sup>1</sup>[Provincial Government] may

<sup>1</sup>See foot-note 3 on p. 535, *ante*.

<sup>2</sup>These words were substituted for the words "from Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>See foot-note 4 on p. 535, *ante*.

of 1923.]

*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Sec. 6.)*

think proper, of an aerial ropeway within any specified area or along any specified route—

- (a) for the public carriage of passengers;
- (b) for the public carriage of passengers, animals and goods; or
- (c) for the public carriage of animals and goods.

(2) A notice shall be published with the draft order stating that any objection or suggestion which any person may desire to make with respect to the proposed order, if submitted to the <sup>1</sup>[Provincial Government] within such period, not being less than two months from the date of such publication, as may be specified in the notice, will be received and considered.

(3) The <sup>1</sup>[Provincial Government] shall also cause public notice of the intention to make the order to be given at convenient places within the said area or along the said route, and shall, so far as may be conveniently possible, cause a like notice to be served on every owner or occupier of land over which such route lies, and shall consider any objection or suggestion, with respect to the proposed order, which may be received from any person within the date specified in such notice and decide thereon.

(4) The draft of the proposed order may specify—

- (i) a time within which the capital required for the construction of the aerial ropeway shall be raised;
- (ii) a time within which the construction shall be commenced;
- (iii) a time within which the construction shall be completed;
- (iv) the conditions under which a concession, guarantee or financial assistance may be given by the <sup>1</sup>[Provincial Government] or a local authority to the promoter;
- (v) the rights of purchase by the <sup>1</sup>[Provincial Government] or by a local authority;
- (vi) the conditions relating to the structural design, quality of materials, factors of safety, method of computing stresses, and other such technical details as may be considered necessary;

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<sup>1</sup>See foot-note 3 on p. 535, *ante*.



*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Sec. 7.)*

- (vii) the conditions relating to the construction of the ropeway over mining properties in accordance with rules made under section 42 and over roads and other public ways of communication <sup>1</sup>[except railways and tramways not wholly within a municipal area, and, with the previous sanction of the Federal Railway Authority or the Central Government, over such railways and tramways;]
- (viii) the conditions under which the promoter may sell or transfer his rights to the <sup>2</sup>[Provincial Government] or to a local authority, company or person;
- (ix) the conditions under which the ropeway may be taken over by the <sup>2</sup>[Provincial Government] to be worked by itself or by a local authority or by a company or person other than the promoter;
- (x) the motive power to be used on the ropeway and the conditions (if any) on which such power may be used;
- (xi) the minimum headway to be maintained under different parts of the rope;
- (xii) the points under the rope at which bridges or guards shall be constructed and maintained;
- (xiii) the amount of security (if any) to be deposited by the promoter in the event of his application being granted;
- (xiv) the traffic which may be carried on the ropeway, the traffic which the promoter shall be bound to carry, and the traffic which he may refuse to carry;
- (xv) the maximum and minimum rates that may be charged by the promoter and the circumstances in which and the manner in which these rates may be revised by the <sup>2</sup>[Provincial Government]; and
- (xvi) such other matters as the <sup>2</sup>[Provincial Government] may deem necessary.

**Final order.**

7. (1) If, after considering any objections or suggestions which may have been made in respect to the draft on or before the specified date, the <sup>2</sup>[Provincial

<sup>1</sup>These words were substituted for certain words by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 3 on p. 535, *ante*.

of 1923.]

*(Chapter II.—Aerial Ropeways for Public Traffic.—Secs. 8-10.)*

Government] are of opinion that the application should be granted with or without modifications, or subject or not to any restrictions or conditions, they shall make an order accordingly.

(2) Every order authorising the construction of an aerial ropeway for the public carriage of passengers, animals or goods shall be published in the <sup>1</sup>[*Official Gazette*], and such publication shall be conclusive proof that the order has been made as required by this section.

8. If a promoter authorised by an order to construct an aerial ropeway for the public carriage of passengers, animals or goods does not, within the time specified in the order,—

Cessation of powers given by an order.

- (a) succeed in raising the full amount of capital required for the completion of the ropeway, or
- (b) substantially commence the construction of the ropeway, or
- (c) complete the construction thereof,

the powers given to the promoter by such order shall, unless the <sup>2</sup>[Provincial Government] prolongs the time so specified, cease to be exercised.

9. When the construction of an aerial ropeway has been authorised under this Act, for the public carriage of animals and goods only, the <sup>2</sup>[Provincial Government] may, on application made by the promoter, sanction the opening of such ropeway for the public carriage of passengers also.

Opening of aerial ropeway to passenger traffic.

*Inspection of Aerial Ropeways for Public Traffic.*

10. (1) No aerial ropeway intended for the public carriage of passengers, animals or goods shall be opened for any kind of traffic until the <sup>2</sup>[Provincial Government] or an Inspector empowered by the <sup>3</sup>[Provincial Government] in this behalf has, by an order, sanctioned the opening thereof for that purpose. The sanction of the <sup>3</sup>[Provincial Government] under this section shall not be given until an Inspector has, after inspection of

Inspection of aerial ropeway before opening.

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<sup>1</sup>See foot-note 4 on p. 535, *ante*.

<sup>2</sup>See foot-note 3 on p. 535, *ante*.

(Chapter II.—Aerial Ropeways for Public Traffic.—  
Secs 11, 12.)

the ropeway, reported in writing to the <sup>1</sup>[Provincial Government]—

- (a) that he has made a careful inspection of the ropeway and appurtenances;
- (b) that the moving and fixed dimensions and other conditions prescribed under sub-section (4) of section 6 and sub-section (1) of section 7 have been complied with;
- (c) that the ropeway is sufficiently equipped for the traffic for which it is intended;
- (d) that the by-laws and rules prescribed by sections 27 and 42 have been duly made, approved and published; and
- (e) that the ropeway is, in his opinion, fit for public traffic and can be used without danger either to the persons, animals or goods carried thereon, or to the persons employed thereon, or to the general public.

(2) The provisions of sub-section (1) shall extend to the opening of additional sections of the ropeway, and to deviation lines and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sub-section (1) apply or are extended by this sub-section.

**Appointment  
and duties of  
Inspectors.**

**11.** (1) The <sup>1</sup>[Provincial Government] may appoint such persons as they deem fit to be Inspectors of aerial ropeways for the public carriage of passengers, animals or goods, and may fix the fees to be charged to promoters for the performance by Inspectors of their duties under this Act.

(2) It shall be the duty of any such Inspector from time to time to inspect such ropeways, and to determine whether they are maintained in a fit condition and worked with due regard to the convenience and safety of the persons using them and of the general public, and consistently with the provisions of this Act.

**Powers of  
Inspectors.**

**12.** An Inspector shall, for the purpose of any of the duties which he is authorised or required to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, for that purpose, have such powers as may be prescribed.

**Act XLV  
of 1900.**

<sup>1</sup>See foot-note 3 on p. 535, *ante*.

of 1923.]

*(Chapter II.—Aerial Ropeways for Public Traffic.  
Secs. 13, 14.)*

**13.** The promoter, and his servants and agents, shall afford to an Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act, or by rules made thereunder.

Facilities to be  
afforded to  
Inspectors.

*Construction and Maintenance of Aerial Ropeways.  
for Public Traffic.*

**14.** (1) Subject to the provisions of, and to the rules made under, this Act, and, in the case of immovable property not belonging to the promoter, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, a promoter of an aerial ropeway for public traffic may—

Authority of  
promoter to  
execute all  
necessary works.

- (a) make such survey as he thinks necessary;
- (b) place and maintain posts in or upon any immovable property;
- (c) suspend and maintain a rope over, along or across any immovable property;
- (d) make such bridges, culverts, drains, embankments and roads as may be necessary;
- (e) erect and construct such machinery, offices, stations, warehouses and other buildings, works and conveniences as may be necessary; and
- (f) do all other acts necessary for constructing, maintaining, altering, repairing and using the aerial ropeway:

Provided that a promoter may take any action under clause (b) or clause (c) of this sub-section, notwithstanding the objection of the owner or occupier of the property affected thereby if the Collector, after giving such owner and occupier by notice in writing an opportunity of being heard, by an order in writing, permits such action.

(2) When making an order under the proviso to sub-section (1), the Collector shall fix the amount of compensation or of annual rent or of both which should, in his opinion, be paid by the promoter to the owner of the property affected thereby, or, in the case of immovable property, to the owner or occupier thereof.

*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Secs. 15-17.)*

Temporary entry  
upon land for  
repairing or  
preventing  
accident.

15. (1) Subject to the rules made under this Act a promoter may, at any time, for the purpose of examining, repairing or altering an aerial ropeway for public traffic or of preventing any accident, enter upon any immovable property adjoining such ropeway, and may do all such works as may be necessary for such purpose.

(2) In the exercise of the powers conferred by sub-section (1), the promoter shall cause as little damage as possible, and compensation shall be paid by him for any damage so caused; and, in a case of dispute as to the amount of such compensation, or the person to whom it shall be paid, the matter shall be referred to the decision of the Collector.

Removal of  
trees, structures

16. (1) Where any tree standing or lying near an aerial ropeway for public traffic, or where any structure or other object which has been placed or has fallen near any such ropeway subsequently to the issue of an order under section 7 in regard to such ropeway, interrupts or interferes with, or is likely to interrupt or interfere with, the construction, maintenance, alteration or use of the ropeway, the Collector may, on the application of the promoter, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(2) When disposing of an application under sub-section (1), the Collector shall, in the case of any tree in existence before the construction of the aerial ropeway, award to the person interested in the tree such compensation, if any, as he thinks reasonable, and the Collector may recover the same from the promoter in the same manner as an arrear of land revenue.

*Explanation.*—For the purposes of this section, the expression “tree” shall be deemed to include any shrub, hedge, jungle-growth or other plant.

Orders of  
Collector  
subject to  
revision by  
Provincial  
Government.

17. No suit shall lie, in respect of any matter referred to in the proviso to sub-section (1) of section 14, sub-section (2) of section 14, section 15 or sub-section (1) of section 16, but every order made by a Collector under any of those sections, and every award made by him under sub-section (2) of section 16, shall be subject to revision by the <sup>1</sup>[Provincial Government] except in the case of an award of compensation made by the Collector on account of action taken under clause (c) of sub-section (1) of section 14, which award shall be subject to revision by the District Judge.

<sup>1</sup>See foot-note 3 on p. 535, ante.

of 1923.]

*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Secs. 18-20.)*

*Working of Aerial Ropeways for Public Traffic.*

18. The promoter of an aerial ropeway for public traffic shall, for the purposes of working an aerial ropeway, and subject to such maximum and minimum rates as may be prescribed, have power from time to time to fix the rates for the carriage of passengers, animals or goods on the aerial ropeway.

Promoter may fix rates.

19. No promoter shall, for the purposes of working an aerial ropeway for public traffic, make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in any respect whatsoever, or subject any particular person or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Duty of promoter to work aerial ropeway without partiality.

20. When any of the following accidents occur in the course of working an aerial ropeway for public traffic, namely:—

Reporting of accidents.

- (a) any accident attended with loss of human life or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property;
- (b) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;
- (c) any accident of any other description which the <sup>1</sup>[Provincial Government] may specify in this behalf in the rules made under this Act;

Act XLV  
of 1860.

the promoter shall, without unnecessary delay, send notice of the accident to the <sup>1</sup>[Provincial Government] and to the Inspector of the aerial ropeway;

and the promoter's servant in charge of the station on the aerial ropeway nearest to the place at which the accident occurred or, where there is no station, the promoter's servant in charge of the section of the aerial ropeway on which the accident occurred shall, with the least possible delay, give notice of the accident to the Magistrate of the district in which the accident occurred

<sup>1</sup>See foot-note 3 on p. 535, ante.

*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Secs. 21, 22.)*

and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the <sup>1</sup>[Provincial Government] may appoint in this behalf.

Power to  
close and  
re-open aerial  
ropeway.

21. (1) If, after inspecting any aerial ropeway opened to public traffic, an Inspector is of opinion that the ropeway or any specified part thereof cannot be used without danger to the public, or is no longer in a fit state for the carriage of any specified class of traffic, he shall state that opinion, together with the grounds therefor, to the <sup>1</sup>[Provincial Government];

and the <sup>1</sup>[Provincial Government], after such further inquiry, if any, as they may think fit, may thereupon order that, for reasons to be set forth in the order, the aerial ropeway, or the part thereof so specified, be closed to all traffic or to any specified class of traffic:

Provided that, in any case of extreme urgency, the Inspector may order the suspension of the working of the ropeway or any part thereof which he considers necessary, pending the orders of the <sup>1</sup>[Provincial Government] on the case.

(2) When, under sub-section (1), an aerial ropeway or any part thereof has been closed to any traffic, it shall not be re-opened to such traffic until it has been inspected, and its re-opening sanctioned, in the prescribed manner.

*Discontinuance of Aerial Ropeways for Public  
Traffic.*

Cessation of  
powers of  
promoter on  
discontinuance  
of aerial  
ropeway.

22. If, at any time after the opening of an aerial ropeway for public traffic, it is proved to the satisfaction of the <sup>1</sup>[Provincial Government] that the promoter has, for three months, discontinued the working of the ropeway or of any part thereof, without a reason sufficient, in the opinion of the <sup>1</sup>[Provincial Government], to warrant such discontinuance, the <sup>1</sup>[Provincial Government], if they think fit, may declare that the powers of the promoter in respect of such aerial ropeway or part thereof shall be at an end; and thereupon the said powers shall cease and determine.

<sup>1</sup>See foot-note 3 on p. 535, ante.

of 1923.]

*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Secs. 23, 24.)*

23. (1) When a declaration has been made under section 22, in respect of any aerial ropeway or of any part thereof, an officer appointed in that behalf by the <sup>1</sup>[Provincial Government] may, at any time after the expiration of two months from the date determined as aforesaid, remove such aerial ropeway or part thereof, as the case may be;

Power of removal of aerial ropeway on cessation of promoter's powers.

and the promoter shall pay to the officer so appointed such costs of removal as shall be certified by that officer to have been incurred by him.

(2) If the promoter fails to pay the amount of costs so certified within one month after the delivery to him of the certificate or of a copy thereof, such officer may, without any previous notice to the promoter and without prejudice to any other remedy which he may have for the recovery of the said amount, sell and dispose of the materials of the aerial ropeway or part thereof so removed;

and may, out of the proceeds of the sale, pay and reimburse himself the amount of costs certified as aforesaid and of the costs of the sale;

and shall pay over the residue (if any) of such proceeds to the promoter.

*Purchase of Aerial Ropeways for Public Traffic.*

24. (1) When an order under section 7 has been made in favour of a promoter of an aerial ropeway for public traffic, not being the <sup>1</sup>[Provincial Government], or a local authority, the <sup>1</sup>[Provincial Government], or a local authority specified in the order published under section 7, shall, on the expiration of such period, not exceeding fifty years, and of every such subsequent period, not exceeding twenty years, as shall be specified in such order, have the option of purchasing the undertaking, and if the <sup>1</sup>[Provincial Government], or the local authority with the previous sanction of the <sup>1</sup>[Provincial Government], elect to purchase, the promoter shall sell the undertaking to the <sup>1</sup>[Provincial Government] or to the local authority as the case may be, on payment of the value of all lands, buildings, works, materials, plant and apparatus of the promoter, suitable to, and used by him for the purposes of, the undertaking, such value to be in case of difference or dispute determined by arbitration:

Power of Provincial Government and local authorities to purchase aerial ropeways for public traffic.

Provided that the value of such lands, buildings, works, materials, plant and apparatus shall be deemed

<sup>1</sup>See foot-note 3 on p. 535, *ante*.



*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Sec. 24.)*

to be their fair market value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials, plant and apparatus, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking:

Provided also that there shall be added to such value, as aforesaid, such percentage, if any, not exceeding twenty *per cent.* of that value, as may be specified in the order passed under section 7, on account of compulsory purchase.

(2) Where a purchase has been effected under sub-section (1)—

- (a) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the promoter or attaching to the undertaking:

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

- (b) save as aforesaid, the order published under section 7 shall remain in full force, and the purchaser shall be deemed to be the promoter:

Provided that where the <sup>1</sup>[Provincial Government] elects to purchase, the order under section 7 shall, after purchase, in so far as the <sup>1</sup>[Provincial Government] is concerned, cease to have any further operation.

(3) Not less than two years' notice in writing of any election to purchase under this section shall be served upon the promoter by the <sup>1</sup>[Provincial Government] or the local authority, as the case may be.

(4) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of the <sup>1</sup>[Provincial Government], waive its option to purchase, and enter into an agreement with the promoter for the working by him of the undertaking until the expiration of the next subsequent period referred to in sub-section (1) upon such terms and conditions as may be stated in the agreement.

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<sup>1</sup>See foot-note 3 on p. 535, *ante*.

of 1923

*(Chapter II.—Aerial Ropeways for Public Traffic.—  
Secs. 25-27.)*

**25.** Where, on the expiration of any of the periods referred to in section 24, neither the <sup>1</sup>[Provincial Government] nor a local authority purchases the undertaking, and the order published under section 7 is, on the application or with the consent of the promoter, revoked, the promoter shall have the option of disposing of all lands, buildings, works, materials, plant and apparatus belonging to the undertaking in such manner as he may think fit.

Power to promoter to sell when option to purchase not exercised and order revoked by consent.

*Inability or Insolvency of Promoter.*

**26.** (1) If, at any time after the opening of an aerial ropeway for public traffic, it appears to the <sup>1</sup>[Provincial Government] that the promoter is insolvent or is unable to maintain the ropeway, or to work the same with advantage to the public, or at all, the <sup>1</sup>[Provincial Government] may declare that the powers of the promoter, in respect of such aerial ropeway, shall, at the expiration of six months from the date of such declaration, be at an end; and thereupon the said powers shall, at the expiration of that period, cease and determine.

Proceedings in case of inability or insolvency of promoter.

(2) At any time after the expiration of the said six months, an officer appointed by the <sup>1</sup>[Provincial Government] in that behalf, may, notwithstanding anything contained in the Provincial Insolvency Act, 1920, remove the aerial ropeway in the same manner and subject to the same provisions as to the payment of costs and to the same remedy for the recovery thereof, in every respect, as in cases of removal under section 23.

V of 1920.

*By-laws.*

**27.** (1) A promoter of an aerial ropeway for public traffic shall, subject to the provisions of sub-section (3), make by-laws—

Power of promoter to make by-laws.

- (a) for regulating the rate of speed at which carriers are to be moved or propelled;
- (b) for declaring what shall be deemed to be dangerous or offensive goods, and for regulating the carriage of such goods;

<sup>1</sup>See foot-note 3 on p. 535, ante.

(Chapter III.—*Private Aerial Ropeways for certain purposes.*—Sec. 28.)

- (c) for regulating the maximum number of passengers and animals, and the maximum weight of goods, to be carried in each carrier;
- (d) for regulating the use of steam-power, or any other mechanical power or electrical power, on the aerial ropeway;
- (e) for regulating the conduct of the promoter's servants;
- (f) for regulating the terms and conditions on which the promoter will warehouse or retain goods at any station on behalf of the consignee or owner of such goods; and
- (g) generally for regulating the travelling upon, and the use, working and management of, the aerial ropeway.

(2) Such by-laws may provide that any person who contravenes the provisions of any of them shall be liable to fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a breach of a by-law made under clause (e) of sub-section (1), the promoter's servant responsible for the same shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the promoter from his pay.

(3) A by-law made under this section shall not take effect until it has been confirmed by the <sup>1</sup>[Provincial Government] and published in the <sup>2</sup>[*Official Gazette*]:

Provided that no such by-law shall be so confirmed until it has been previously published by the promoter in such manner as may be prescribed.

### CHAPTER III.

*Private Aerial Ropeways for certain purposes.*

Application for acquisition of land in case of certain private ropeways.

28. (1) Where the <sup>1</sup>[Provincial Government] are satisfied that the construction, extension, working or management of an aerial ropeway for private traffic is likely to prove useful to the public by reason of its facilitating the transport of commodities in general use or is required for the conservation or service of undertakings supplying those commodities, and where the intending promoter of such aerial ropeway is desirous of obtaining any land for the purpose of such construction, extension, working or management, the <sup>1</sup>[Provincial Government] may, on the application of such

<sup>1</sup>See foot-note 3 on p. 535, ante.

<sup>2</sup>See foot-note 4 on p. 535, ante.

of 1923.]

(Chapter III.—Private Aerial Ropeways for certain purposes.—Sec. 29.)

1 of 1894.

promoter, acquire on his behalf such land under the provisions of Part VII of the Land Acquisition Act, 1894, or procure the temporary occupation of the same under the provisions of Part VI of that Act, whether the said intending promoter is or is not a company as defined in that Act.

(2) The <sup>1</sup>[Provincial Government] shall by notification in the <sup>2</sup>[*Official Gazette*] declare the commodities which shall be deemed to be commodities in general use for the purposes of sub-section (1).

29. (1) No order shall be made by the <sup>1</sup>[Provincial Government] under sub-section (1) of section 28 until an enquiry has been held as hereinafter provided and the intending promoter has entered into an agreement with <sup>3</sup>[the Provincial Government] in respect of the matters mentioned in sub-section (4). Agreement.

(2) Such inquiry shall be held by such officer and at such time and place as the <sup>1</sup>[Provincial Government] shall appoint.

Act V of 1908.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure <sup>4</sup>[ , 1908,] in the case of a Civil Court.

(4) Such officer shall report to the <sup>1</sup>[Provincial Government] the result of the inquiry, and if the <sup>1</sup>[Provincial Government] are satisfied that the ropeway is or is likely to be useful to the public, they shall, subject to any rules made under section 42, require the intending promoter to enter into an agreement with <sup>3</sup>[the Provincial Government], providing to the satisfaction of the <sup>1</sup>[Provincial Government] for the following matters, namely:—

- (a) the terms on which the ropeway shall be held by the promoter;
- (b) the time within which, and the conditions on which, the ropeway shall be constructed, maintained and used.

<sup>1</sup>See foot-note 3 on p. 535, *ante*.

<sup>2</sup>See foot-note 4 on p. 535, *ante*.

<sup>3</sup>These words were substituted for the words "the Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>This figure was inserted by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

[Ben. Act VII]

(Chapter III.—*Private Aerial Ropeways for certain purposes.*—Chapter IV.—*Offences, Penalties and Arrest.*—Secs. 30, 31.)

(5) Every such agreement shall, as soon as may be after its execution, be published in the <sup>1</sup>[*Official Gazette*].

Temporary occupation of land in case of private aerial ropeway.

30. If land is to be occupied temporarily in accordance with the provisions of sub-section (1) of section 28 on behalf of the promoter of an aerial ropeway for private traffic, and if the <sup>2</sup>[Provincial Government] on the application of the promoter so direct, then the provisions of Part VI of the Land Acquisition Act, 1894, shall apply to such occupation, subject to the provisions that, notwithstanding anything contained in section 35 of the Land Acquisition Act, 1894, the occupation and use by the promoter of the land occupied shall continue for such period, not exceeding ten years, as the <sup>2</sup>[Provincial Government] may fix, and that the compensation payable to the persons interested in such land shall be fixed with due regard to any additional loss or inconvenience caused to them by reason of such period of occupation, including loss caused by the interruption of the getting of minerals by reason of such occupation.

I of 1894.

## CHAPTER IV.

### *Offences, Penalties and Arrest.*

Failure of promoter to comply with Act.

31. If a promoter of an aerial ropeway for public traffic—

- (a) constructs or maintains an aerial ropeway otherwise than in accordance with the terms of an order made under section 7, or
- (b) opens an aerial ropeway or permits it to be opened in contravention of any of the provisions of section 10, or
- (c) fails to comply with the provisions of section 13, or
- (d) fails to pay within a reasonable time any compensation awarded by the Collector or by the <sup>2</sup>[Provincial Government] under sections 14, 15, 16 or 17, or

<sup>1</sup>See foot-note 4 on p. 525, ante.

<sup>2</sup>See foot-note 2 on p. 535, ante.

of 1923.]

*(Chapter IV.—Offences, Penalties and Arrest.—*  
*Secs. 32,33.)*

- (e) contravenes any of the provisions of section 19,  
or
- (f) fails to send notice of any accident as required  
by section 20, or
- (g) fails to close an aerial ropeway in accordance  
with an order passed under sub-section (1)  
of section 21, or re-opens any aerial rope-  
way in contravention of sub-section (2) of  
that section, or
- (h) continues to exercise the powers of a promoter  
in respect of any aerial ropeway, in con-  
travention of the provisions of section 22 or  
section 26, or
- (i) fails to comply with the provisions of section 27  
or section 36, or
- (j) contravenes any of the provisions of section 37,  
or
- (k) contravenes the provisions of any rule made  
under section 42,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act, or of any other remedy which may be obtained against him) be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, to a further fine which may extend in the case of an offence specified in sub-clause (d), (e), (f), (i), (j) or (k) to fifty rupees, and in the case of an offence specified in sub-clause (a), (b), (c), (g) or (h) to one thousand rupees for every day after the first during which the offence continues to be committed.

**32.** If any person without lawful excuse, the burden of proving which shall be upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing, maintaining, altering, repairing or working an aerial ropeway, or injures or destroys any mark made for the purpose of setting out the line or route of such ropeway, he shall be punished with fine which may extend to two hundred rupees.

Unlawfully obstructing promoter in exercise of his powers.

**33.** If any person without lawful excuse, the burden of proving which shall be upon him, wilfully does any of the following things, namely:—

Unlawfully interfering with aerial ropeway.

- (a) interferes with, removes or alters any part of an aerial ropeway or of the works connected therewith,

(Chapter IV.—*Offences, Penalties and Arrest.*—

Chapter V.—*Supplementary Provisions.*—Secs. 34-37.)

(b) does anything in such a manner as to obstruct any carrier travelling on an aerial ropeway,

(c) attempts to do, or abets, within the meaning of the Indian Penal Code, the doing of anything mentioned in clause (a) or clause (b),

Act XLV  
of 1860.

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punishable with fine which may extend to two hundred rupees.

Maliciously doing, abetting or attempting to do, acts endangering safety of persons travelling or being upon aerial ropeway.

34. If any person does anything mentioned in clauses (a), (b) or (c) of section 33 or does, attempts to do, or abets, within the meaning of the Indian Penal Code, the doing of any other act or thing in relation to an aerial ropeway with intent or with knowledge that he is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall be punished with imprisonment for a term which may extend to fourteen years.

Arrest for offences against certain sections.

35. (1) If any person commits any offence under section 32 which obstructs the working of an aerial ropeway for public traffic, or commits any offence punishable with imprisonment under section 34, he may be arrested without warrant or other written authority by any servant of the promoter, or by any police-officer or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or to commit him for trial.

## CHAPTER V.

### *Supplementary Provisions.*

Returns.

36. A promoter of an aerial ropeway for public traffic shall, in respect of such ropeway, submit to the <sup>1</sup>[Provincial Government] returns of capital, receipts and traffic at such intervals and in such forms as may be prescribed.

Protection of roads, railways, tramways and waterways.

37. No promoter of an aerial ropeway shall, in the course of the construction, repair, working or management of such ropeway, cause any permanent injury to any public road, railway, tramway or waterway, or

<sup>1</sup>See foot-note 3 on p. 535, *ante*.

of 1894.]

*(Chapter V.—Supplementary Provisions.—Secs. 38-40.)*

obstruct or interfere with, otherwise than temporarily, as may be necessary, the traffic on any public road, railway, tramway or waterway.

38. The <sup>1</sup>[Provincial Government] may, if they think fit, on the application of any promoter of an aerial ropeway for public traffic desirous of obtaining any land for the purpose of constructing, working or managing such ropeway, direct that he may, subject to the provisions of this Act, acquire such land under the provisions of the Land Acquisition Act, 1894, in the same manner and on the same conditions as it might be acquired if the promoter were a company.

Acquisition of land by a promoter.

I of 1894.

39. No person shall be entitled to a refund of an overcharge in respect of animals or goods carried by an aerial ropeway for public traffic or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the promoter within six months from the date of the delivery of the animals or goods for carriage by the ropeway.

Limitation of claims for damage to animals or goods.

40. (1) Sections 1, 2, 11, 12, 13, 14, 15, 16, 20 and 21, clauses (c), (f), (g), (j) and (k) of section 31, sections 34, 35 and 37, and sub-sections (1) and (3) and clauses (b), (c), (d), (e), (g), (h), (m), (o), (p) and (q) of sub-section (2) of section 42 shall also apply to the private aerial ropeways constructed for the purposes referred to in section 28, whether constructed before or after the commencement of this Act:

Application of Act to certain private aerial ropeways.

Provided that, in the application of section 16 to any such aerial ropeway, for the words "the issue of an order under section 7" the words "the opening of the ropeway to traffic or the issue of a notification for the acquisition of, or an order for the temporary occupation of, land in accordance with the provisions of sub-section (1) of section 28, whichever is earlier," shall be deemed to be substituted.

(2) Clauses (a), (c) and (e) of sub-section (1) and sub-section (2) of section 10 shall also apply to all such private aerial ropeways constructed after the commencement of this Act, and clause (b) of section 31 shall apply to such ropeways to the extent that section 10 applies thereto.

(3) The <sup>1</sup>[Provincial Government], on the application of the promoter or otherwise, may declare that the provisions of section 28 and of sub-section (1) of this section shall apply to any private aerial ropeway or class of private aerial ropeways for private traffic.

<sup>1</sup>See foot-note 3 on p. 535, ante.



*(Chapter V.—Supplementary Provisions.—Secs. 41,42.)*

of  
Provincial  
Government to  
constitute an  
Advisory Board  
for aerial rope-  
ways.

41. (1) The <sup>1</sup>[Provincial Government] shall, by notification in the <sup>2</sup>[*Official Gazette*], constitute an Advisory Board for aerial ropeways.

(2) Such Board shall consist of a Chairman to be appointed by the <sup>1</sup>[Provincial Government] who shall be a Chief Engineer to the <sup>1</sup>[Provincial Government], and two persons to be appointed by the <sup>1</sup>[Provincial Government] as expert members.

(3) When any person is aggrieved by an order of the <sup>1</sup>[Provincial Government] under section 7 or under section 21, such person, on payment of the prescribed fees, may, within thirty days of the said order, apply to the <sup>1</sup>[Provincial Government] for revision of the same, and the <sup>1</sup>[Provincial Government] shall take the advice of the Advisory Board in the prescribed manner and shall consider such advice and pass such orders in the matter as to the <sup>1</sup>[Provincial Government] shall seem just and proper.

(4) With a view to enabling the Board to tender their advice under sub-section (3) the Board, with the consent of the <sup>1</sup>[Provincial Government] and on payment of such further fees as may be prescribed, may make such further inquiry into the matter as the Board may consider to be necessary.

(5) The <sup>1</sup>[Provincial Government] may, by general or special order,—

- (a) define the further duties of, and regulate the procedure of, the Advisory Board;
- (b) determine the tenure of office of the members of the Board; and
- (c) give directions as to the payment of fees to, and the travelling expenses incurred by, any member of such Board in the performance of his duty.

Power of  
Provincial  
Government to  
make rules.

42. (1) The <sup>1</sup>[Provincial Government] may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the conditions under which licenses for the construction of aerial ropeways over mining

<sup>1</sup>See foot-note 3 on p. 535, ante.

<sup>2</sup>See foot-note 4 on p. 535, ante.

of 1923]

*(Chapter V.—Supplementary Provisions.—Sec. 42.)*

properties shall be granted, including conditions as to the assessment and payment of compensation for loss caused by the interruption of the getting of minerals by reason of such construction and conditions as to the removal of any portion of the ropeway to another alignment, to be fixed by arbitration if necessary, if at any time in the opinion of the <sup>1</sup>[Provincial Government] the ropeway interferes with the raising of minerals;

- (b) the powers of an Inspector appointed under section 11;
- (c) the conditions under which and the manner in which the powers conferred on promoters by sub-section (1) of section 14 and sub-section (2) of section 15 may be exercised;
- (d) the accidents of which notice shall be given to the <sup>1</sup>[Provincial Government] and to the Inspector under clause (c) of section 20;
- (e) the duties of the promoter's servants, police-officers, and Magistrates on the occurrence of an accident;
- (f) the maximum and minimum rates which a promoter may fix under section 18;
- (g) the standard dimensions and specifications with which the aerial ropeway is to conform;
- (h) the procedure for the disposal of applications under sub-section (2) of section 21 to re-open an aerial ropeway or part thereof and the conditions under which such ropeway may be re-opened;
- (i) the manner of previous publication of by-laws made under section 27;
- (j) the intervals at which a promoter shall submit returns under section 36, and the forms in which such returns shall be submitted;
- (k) the preparation, submission and auditing of the accounts of the promoter;
- (l) the method of arbitration for the settlement of disputes;
- (m) the manner in which notices under this Act shall be served;

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<sup>1</sup>See foot-note 3 on p. 535, *ante*.

(Chapter V.—Supplementary Provisions.—Sec. 42.)

- (n) the manner in which, and the conditions under which, the through booking of goods may be permitted between an aerial ropeway and a railway, tramway or another aerial ropeway;
- (o) the safe and efficient working of aerial ropeways;
- (p) the fees to be charged to promoters and other persons in respect of licenses, applications, inquiries, inspection, and services rendered under this Act; and
- (q) the procedure for filing, hearing and disposing of applications for revision under this Act, and the procedure for taking the advice of the Advisory Board.

(3) All rules made under this section shall be published in the <sup>1</sup>[*Official Gazette*].

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<sup>1</sup>See footnote 4 on p. 535, *ante*.

# **Bengal Act XI of 1923.**

Strike out Bengal Act XI of 1923, and insert the following note namely:—

(Repealed by Bengal Act XVI of 1946, section 3 and the Second Schedule.)

*[No. 41, dated the 22nd July, 1947.]*  
*with the Budget Estimate of the Corporation of Calcutta for the year 1924-25, the fixing of the rates at which the consolidated rate and the taxes for that year shall be levied and imposed and the arrangements to be made in connection with the raising of loans during that year, for the fixing of the percentage of the consolidated rate in respect of the added areas during the four succeeding years, and for the amendment of section 20 of the Calcutta Municipal Act, 1923, in respect of the qualification of electors.*

Ben. Act  
III of 1923.

WHEREAS it is expedient to give to representatives of the Commissioners of the municipalities which are to be included in Calcutta, under the provisions of the Calcutta Municipal Act, 1923, an opportunity of taking part in the framing and passing of the Budget Estimate of the Corporation of Calcutta for the year 1924-25, in the fixing of the rates at which the consolidated rate and the taxes for that year shall be levied and imposed and in the arrangements that are to be made for the raising of any loan during that year, and so to provide for the framing and passing of the said Budget Estimate, the fixing of the said rate and the arrangements for the said loans; Preamble.

And whereas it is expedient that the Corporation do fix for the year 1924-25 a favourable percentage in respect of the levy of the consolidated rate on lands and buildings in each of the areas added to Calcutta by the Calcutta Municipal Act, 1923, and that they have power to fix a special percentage in respect of the lands and buildings in any such areas during the four succeeding years;

And whereas it is expedient to amend section 20 of the said Act in respect of the minimum amount to be paid by a person as consolidated rate, tax or rent so as to entitle him to be an elector;

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1923, Pt. IV, p. 294; and for Proceedings in Council, see the *Bengal Legislative Council Proceedings*, 1923, Vol. XII, pp. 61-62, and Vol. XIII, pp. 166-205.

(*Secs. 1-3.*)

It is hereby enacted as follows:—

**Short title and extent.**

1. (1) This Act may be called the Calcutta Municipal (No. II) Act, 1923.

(2) It extends to Calcutta as defined in clause (11) of section 3 of the Calcutta Municipal Act, 1923.

*Ben. Act  
III of  
1923.*

**Manner of preparation and passing of Budget Estimate of the Calcutta Corporation for 1924-25, etc.**

2. Notwithstanding anything contained in the Calcutta Municipal Act, 1899, or in the Calcutta Municipal Act, 1923, the Budget Estimate of the Corporation of Calcutta for the year 1924-25 for the purposes of the Calcutta Municipal Act, 1923, shall be prepared and passed, and the rates at which the consolidated rate and the taxes for the said year for the said purposes shall be levied and imposed shall be determined and fixed, and the sums of money, if any, that shall be borrowed in the said year for the said purposes shall be determined, in the manner set forth in sections 3 to 5.

*Ben. Act  
III of  
1899.*

**Preparation of Budget Estimate and reference to General Com-**

3. (1) The Budget Estimate of income and expenditure for the year 1924-25 of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923, shall be prepared, with reference to the area specified in Schedule I to that Act and for the purposes of that Act, by the Chairman of the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, and the said Chairman shall, on or before the tenth day of January, 1924, place the same, together with a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the Calcutta Municipal Act, 1923, in the year 1924-25, before the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, at a special meeting convened for the purpose, and the Corporation of Calcutta, as so constituted, shall forthwith refer the said Budget Estimate and proposals for consideration to a Special Committee which shall consist of the following members:—

(i) the Chairman of the Calcutta Corporation;

(ii) nine Commissioners of the Calcutta Corporation to be elected by the Corporation at the said special meeting from among the ward Commissioners;

(iii) four Commissioners of the Calcutta Corporation to be elected by the Corporation at the said special meeting from among the appointed Commissioners;

of 1923.]

(Sec. 4.)

- (iv) four Commissioners of the Cossipore-Chitpur Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924;
- (v) three Commissioners of the Maniktala Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924; and
- (vi) two Commissioners of the Garden Reach Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924:

Provided that, if the Commissioners of any of the municipalities referred to in clauses (iv), (v) and (vi) fail to elect the full number of members to be elected by them by the first day of January, 1924, the <sup>1</sup>[Provincial Government] shall nominate a sufficient number of persons to complete the said number and such persons shall be deemed to be members duly elected by the said Commissioners.

(2) The names of the members of the Special Committee shall be published in the <sup>2</sup>[*Official Gazette*].

(3) The Chairman of the Calcutta Corporation shall be Chairman of the Special Committee, and the procedure of the Special Committee shall be in accordance with the rules made for the business of Standing Committees of the Corporation of Calcutta.

(4) The Special Committee, as so constituted, shall, on or as soon as may be after the tenth day of February, 1924, consider the estimates and proposals submitted by the Chairman of the Corporation and subject to such modifications and additions therein or thereto as they may think fit to make, shall prepare a Budget Estimate of income and expenditure of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923, for the year 1924-25, and shall propose the levy of the consolidated rate and other taxes for that year at such rates as they may deem necessary.

4. (1) The Budget Estimate, as finally framed by the said Special Committee, together with a statement of proposals as to the taxation which it will, in the

get  
etc.

<sup>1</sup>These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "*Calcutta Gazette*," *ibid.*

## (Sec. 4.)

opinion of the Special Committee, be necessary or expedient to impose under this Act in the year 1924-25, shall be placed before the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, on or before the seventh day of March, 1924, and the said Corporation shall consider, on behalf of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923, the said proposals of the Special Committee, and in so doing shall apply thereto the provisions of the Calcutta Municipal Act, 1923, so far as in their opinion these can be suitably applied, and shall, on or before the twenty-second day of March, 1924, pass the same Budget Estimate, subject to such further modifications or additions as to them shall appear to be expedient, and shall fix, with reference to the Budget Estimate as so passed, the rates at which the consolidated rate and the taxes mentioned in the Calcutta Municipal Act, 1923, shall be levied and imposed for the year commencing on the first day of April, 1924, and the sums of money (if any) which shall be borrowed during the said year for the purposes of the Calcutta Municipal Act, 1923:

Ben. Act  
III of 1899Ben. Act  
III of  
1923.

Provided that, notwithstanding anything contained in the Calcutta Municipal Act, 1923, the total amount by way of—

- (i) the rate on holdings,
- (ii) the lighting rate (if any),
- (iii) the water rate (if any), and
- (iv) the latrine fees (if any),

assessed and leviable under the Bengal Municipal Act, 1884, for the year ending the 31st March, 1924, in respect of any holding in any of the areas added to Calcutta by the Calcutta Municipal Act, 1923, shall be deemed to be the consolidated rate leviable under the provisions of the Calcutta Municipal Act, 1923, in respect of lands and buildings included in such holding for the year 1924-25 for all the purposes of that Act:

Ben. Act  
III of  
1884.

Provided also that if any new building, as defined in the Calcutta Municipal Act, 1923, is erected during the year 1924-25 on any premises in any of the said areas, the Executive Officer may cause such building to be valued, and the consolidated rate on the premises shall be levied at the rate fixed for that year for the purpose of the levy of the consolidated rate on lands and buildings in Calcutta generally. The valuation so made shall remain in force until the next general revaluation of the ward under the provisions of the Calcutta Municipal Act, 1923.

Ben. Act  
III of 1923.

of 1923.]

(Sec. 5.)

Ben.  
Act III of  
1899.

(2) For the purposes of this section, notwithstanding anything contained in the Calcutta Municipal Act, 1899, the Corporation of Calcutta shall be deemed to include the additional members referred to in clauses (iv), (v) and (vi) of sub-section (1) of section 3.

(3) If the Special Committee fail to submit to the Corporation of Calcutta by the seventh day of March, 1924, the Budget Estimate and proposals referred to in sub-section (4) of section 3, the Budget Estimate and proposals of the Chairman referred to in sub-section (1) of that section shall be deemed to be the Budget Estimate and proposals of the Special Committee finally framed and duly made in accordance with this Act and the Corporation shall consider them accordingly. If the Corporation of Calcutta fail to consider and to pass by the twenty-second day of March, 1924, the Budget Estimate of the Special Committee, the Budget Estimate and proposals of the Special Committee shall be deemed to be the Budget Estimate and proposals of the Corporation of Calcutta duly made and passed under the provisions of this Act.

5. The Budget Estimate of the Corporation of Calcutta for the year 1924-25, as so passed, and the rates at which the consolidated rate and taxes shall be levied and imposed, as so determined and fixed, and the decision of the Corporation in respect of any loan or loans to be raised, shall, notwithstanding anything contained in the Calcutta Municipal Act, 1923, have for all the purposes of that Act full force and effect in Calcutta as defined in clause (11) of section 3 of that Act during the year 1924-25 and—

Validity of  
Budget Estimate  
for 1924-25, etc.

- (i) the said Budget Estimate shall be deemed to be the Budget Estimate duly passed,
- (ii) the consolidated rate and taxes levied and imposed at the rates so determined and fixed shall be deemed to be the consolidated rate and taxes duly levied and imposed, and
- (iii) the loans, if any, incurred in accordance with the said decision shall be deemed to be loans duly incurred,

Ben.  
Act III of  
1923.

by the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1923, unless and until such Budget Estimate, consolidated rate and taxes and decision in regard to loans are added to, modified or varied by that Corporation and in accordance with the provisions of that Act.



[Ben. Act XI of 1923.]

(Secs. 6-9.)

Power to Chair-  
man to inspect  
and take extracts  
from documents,  
etc.

6. The Chairman of the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, and any officer of the said Corporation specially empowered by him in this behalf shall from the commencement of this Act and notwithstanding anything contained in the Bengal Municipal Act, 1884, have power to inspect and take extracts from the assessment books and other records of the Maniktala, Cossipore-Chitpur, Garden Reach and Tollygunge Municipalities for all or any of the purposes of this Act and of the Calcutta Municipal Act, 1923, and the Commissioners of the said municipalities shall render to the said Chairman and to any such officer all assistance that he may require for the said purposes.

Ben.  
Act III  
of 1899.

Ben.  
Act III  
of 1884.

Power to Cor-  
poration to fix  
lower percentage  
rate for the con-  
solidated rate in  
respect of lands  
and buildings, in  
added areas dur-  
ing the years  
1925-26 to 1928-  
29.

7. Notwithstanding anything contained in the Calcutta Municipal Act, 1923, the Corporation, in fixing the rate at which the consolidated rate for any of the years 1925-26, 1926-27, 1927-28 or 1928-29 on lands and buildings in Calcutta generally shall be levied and imposed, may fix, in respect of the lands and buildings in any of the several areas referred to in sub-clauses (z) to (v) of clause (I) of section 3 of that Act, a rate at a lower percentage on the annual valuation than the percentage which is fixed for that year generally in respect of lands and buildings in Calcutta.

8. [Amendments incorporated in Ben. Act III of 1923.]

Power to re-  
move difficulties.

9. If any difficulty arises in assessing and levying a consolidated rate for the year 1924-25 in respect of any of the lands, or of the lands and buildings, in the areas added to Calcutta by the Calcutta Municipal Act, 1923, the <sup>1</sup>[Provincial Government], on the recommendation of the Corporation, may make such order as to them shall appear to be necessary in order to enable the Corporation to assess and levy a consolidated rate for that year in respect of such land or such land and building.

Ben.  
Act III of  
1923.

Any such order may modify the provisions of this Act and of the Calcutta Municipal Act, 1923, so far as to the <sup>1</sup>[Provincial Government] shall appear to be necessary for carrying the order into effect.

<sup>1</sup>See foot-note 1 on p. 561, ante.

# Bengal Act XII of 1923.

(The St. Thomas' School Act, 1923.)<sup>1</sup>

(19th September 1923.)

*An Act to provide for the management and future location of St. Thomas' School and for the making over of certain land for the compound of St. Thomas' Church in Calcutta to certain ecclesiastical authorities.*

WHEREAS it is expedient, in order to place the affairs of St. Thomas' School in Calcutta (hitherto known as the Calcutta Free School) on a legal and stable basis, to provide for the management and future location of the said school and for the making over of certain land for the compound of St. Thomas' Church in Calcutta to certain ecclesiastical authorities; Preamble.

And whereas the previous sanction of the Governor-General has been obtained under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act;

5 & 6 Geo.  
V, c. 61;  
6 & 7 Geo.  
V c. 37;  
9 & 10  
Geo. V,  
c. 101.

It is hereby enacted as follows:—

## PRELIMINARY.

1. (1) This Act may be called the St. Thomas' School Act, 1923. Short title  
and commence-  
ment.

(2) This section and section 2 shall come into force at once, and the remainder of the provisions of this Act shall come into force on such date<sup>2</sup> as the<sup>3</sup> [Provincial Government] may, by notification in the<sup>4</sup> [Official Gazette], direct.

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<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1923, Pt. IV p. 310; and for proceedings in Council, see the Bengal Legislative Council Proceedings 1923, Vol. XII, pp. 64-67, and Vol. XIII, pp. 205-207.

<sup>2</sup>The 12th November, 1923, see Notification No. 3237Edn., dated the 3rd November, 1923, *Calcutta Gazette* of the 7th November 1923, Pt. I, p. 1671.

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>These words were substituted for the words "*Calcutta*"  
*ibid.*

## (Sec. 2.)

## CONSTITUTION.

Constitution of  
the Governors.

2. (1) The Governors of St. Thomas' School (hereinafter referred to as the Governors) shall be—

- (a) the Lord Bishop of Calcutta;
- (b) the Archdeacon of Calcutta;
- (c) the Master of the Calcutta Trades Association for the time being;
- (d) one person of either sex to be nominated by the Bengal Chamber of Commerce;
- (e) one person of either sex to be nominated by the Anglo-Indian and Domiciled European Association of Bengal;
- (f) one European or Anglo-Indian Commissioner of the Corporation of Calcutta to be nominated by the Corporation; and
- (g) the following persons, of either sex, being members of the Church of England, namely:—

<sup>1</sup>[(i) three persons to be nominated by the Provincial Government;]

- (iii) one person to be nominated by the vestry of St. Paul's Cathedral, Calcutta;

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vestry  
and

Page 566—

In section 2, for sub-section (2) substitute the following sub-section:—

vestry  
and

“(2) The Governors shall at a meeting co-opt with themselves two teachers, of either sex, of St. Thomas' School to be elected for the purpose of such co-option by the teachers of that school in the manner prescribed by rules made under section 15, and may at a meeting co-opt such other persons, of either sex, not exceeding three in number, as they may consider necessary; and all persons co-opted under this sub-section shall be deemed to be Governors for the purposes of this Act.”

do not  
Governors  
purpose  
Governors  
of either  
of school  
deemed  
co-opted  
the said

[substituted by Ben. Act VIII of 1941, section 2 (1).]

[No. 16, dated the 30th October 1941.]

of 1923.]

(Secs. 3-6.)

(4) The names of the nominated and co-opted Governors shall be published in <sup>1</sup>[*Official Gazette*].

3. The Governors shall be a body corporate by the name of the "Governors of St. Thomas' School" having perpetual succession and a common seal and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts consistent with this Act, which may in their opinion be necessary for, or conducive to, the carrying out of the purposes of the school.

Incorporation of the Governors.

4. The nominated and co-opted Governors shall, save as is herein otherwise provided, hold office for a period of three years from the date of the publication of their names in the <sup>1</sup>[*Official Gazette*]:

Period of office of the Governors.

Provided that the said period of three years shall be held to include any period which may elapse between the expiration of the said three years and the date of the publication of names of new Governors in the <sup>1</sup>[*Official Gazette*]:

Provided also that the nominated and co-opted Governors shall be eligible for re-appointment.

5. (1) The quorum necessary for the transaction of business at meetings of the Governors shall be five.

Quorum.

(2) No act of the Governors shall be invalid merely by reason of any defect or invalidity in the appointment of any nominated or co-opted Governor or by reason of the number of Governors being less than that prescribed by section 2.

6. If a nominated or co-opted Governor—

Power to appoint new Governors

(a) dies, or

(b) is absent from the meetings of the Governors for more than six consecutive months, or

(c) desires to be discharged, or

(d) refuses to act or becomes incapable of acting,

the authority which nominated or co-opted him may in cases (b) to (d) declare his post to be vacant and may in cases (a) to (d) nominate or co-opt, as the case may be, a new Governor to fill such vacancy for the unexpired remainder of the term for which such Governor would otherwise have continued in office.

## (Secs. 7-9.)

## MANAGEMENT AND PROPERTY OF ST. THOMAS' SCHOOL.

Change in the name of the school and vacation of office by existing Governors.

7. From the date when this section comes into operation—

- (i) the Calcutta Free School shall be known as St. Thomas' School, and
- (ii) the term of office of all persons then acting as Governors of the school shall cease and the St. Thomas' School Society shall cease to have any connection with the management of the school.

Property to vest in the Governors.

8. (1) All property, movable or immovable, which at the date when this section comes into operation appertains to the Calcutta Free School or is held by or on behalf of the persons then acting as Governors of the school or by the St. Thomas' School Society for the purposes of the school (including the premises specified in the First Schedule) shall, together with any property movable or immovable which may thereafter be given, bequeathed, transferred or acquired for the purposes mentioned in section 11, vest as and from such date in the Governors of St. Thomas' School as constituted by section 3 for the purposes of the school:

Provided that the Governors shall apply any funds which up to that date have been held in trust for specific purposes in connection with the school including the funds set forth in the Second Schedule, and any funds which may thereafter be so held, to the purposes for which they are held in trust.

(2) All liabilities which at the said date have been incurred by the persons then or theretofore acting as Governors or by the St. Thomas' School Society for the purposes of the school shall be deemed to be, and are hereby declared thereafter to be, liabilities of the Governors of St. Thomas' School as constituted by section 3.

Powers to Governors to remove school from present site and dispose of that site.

9. The Governors are hereby authorised to carry out the removal of the school from the site in Free School Street, where it is in part located, to such other site or sites as the Governors may, with the sanction of the '[Provincial Government]', determine and the Governors are hereby empowered in that behalf to sell, lease, mortgage, or otherwise dispose of the present premises in Free School Street and the site thereof and to acquire by purchase or otherwise a suitable site or sites

of 1923.]

(Secs. 10-13.)

and to erect buildings for the purposes of the school as the Governors may, with the sanction of the <sup>1</sup>[Provincial Government], determine.

10. The Governors shall have power from time to time—

Power to Governors to delegate their powers and to appoint teachers and officers.

- (a) to delegate, subject to such conditions as they think fit, any of their powers to sub-committees consisting of such Governors as they shall think fit;
- (b) to appoint a Secretary and to fix his remuneration, if any; and
- (c) to appoint such persons as they shall think fit to employ for the purposes of the school (including school-teachers, boarding-masters, matrons, sergeants, clerks, officers and servants) and to fix their remuneration.

11. The purposes of St. Thomas' School are hereby declared to be as follows and, save as is otherwise herein provided, all property vested in the Governors by or under this Act shall be deemed to be held in trust for the said purposes and not otherwise:—

Purposes of St. Thomas' School.

- (1) the maintenance of an efficient school, and
- (2) the provision of a sound education, with religious instruction in accordance with the principles of the Church of England, for the children of Europeans and Anglo-Indians:

Provided that in the interpretation of the terms "European" and "Anglo-Indian" the Governors shall have due regard to any definition of those terms which may be included in the Code of Regulations for European Schools.

12. The Governors shall not be precluded by any provision in this Act from conforming to any regulations which the <sup>1</sup>[Provincial Government] may impose as the conditions of a grant of money to the school.

Act not to preclude Governors from conforming to regulations of Provincial Government.

**MAKING OVER OF LAND FOR THE COMPOUND OF  
ST. THOMAS' CHURCH.**

13. (1) The Governors are further authorised in such manner as they deem fit to make over to, and

Compound of St. Thomas' Church.

<sup>1</sup>See foot-note 3 on p. 565, *ante*.

(Secs. 14, 15.)

to vest in, the Lord Bishop of Calcutta and the Archdeacon of Calcutta conjointly such land (the property of the Governors), adjacent to St. Thomas' Church and not exceeding, when taken together with the land consecrated with the St. Thomas' Church building, two bighas in all, as they may deem to be necessary for the convenient user of that Church for the purposes of the Church of England.

(2) The boundaries of such land shall be delineated on the ground and approved by the <sup>1</sup>[Provincial Government] before action is taken by the Governors under sub-section (1).

## PROVIDENT FUND.

Power to Governors to establish a provident fund or funds.

14. The Governors may, with the approval of the <sup>1</sup>[Provincial Government], establish a provident fund or provident funds for the benefit of their teachers, other officers or servants (appointed in accordance with the provisions of this Act) and may compel all or any of such teachers, officers and servants to contribute to, and may make supplementary contributions to, such provident fund or funds and make payments thereout in accordance with the rules of such fund or funds.

## Page 570—

Power to Governors to make rules.

After clause (a) of section 15 insert the following clause :—

“(aa) prescribing the manner in which the election referred to in sub-section (2) of section 2 shall be held;”

(Inserted by Ben. Act VIII of 1941, section 3.)

[No. 16, dated the 30th October 1941]  
THE GOVERNORS,

- (c) for the management and control of the school in all its departments, including any hostel that may be established in connection with the school;
- (d) regulating the proceedings of sub-committees;
- (e) prescribing the rates and the conditions under which contributions may be paid by the Governors and their officers, teachers and servants to the provident fund or funds which may be established under section 14, and determining the conditions of payments from such fund or funds.

<sup>1</sup>See foot-note 2 on p. 565, ante.

*(The First and Second Schedules.)*

**THE FIRST SCHEDULE.**

*(See section 8.)*

(1) With the exception of the St. Thomas' Church building and the land consecrated therewith, measuring one hundred and eighteen feet by fifty-nine feet, the site with buildings thereon known as the Calcutta Free School, situated at 58, Free School Street, 28, Marquis Street, and 6, Marquis Lane, Calcutta, measuring about thirty-one bighas, and bounded as follows:—

“On the north by pucca houses, a small Church known as St. Joseph's (Madrasi) Chapel and Market Street; on the south by a house and Marquis Street; on the east by a house and Collin Street (formerly called Collinga Bazar Street); and on the west by Free School Street.”

(2) The leasehold of the land and buildings, known as Kidderpore House, situated on 4, Diamond Harbour Road, in Kidderpore in the district of the 24-Parganas, containing an area of twenty-one decimal nought four acres or thereabouts, and bounded as follows:—

“On the north by St. Stephen's Church compound and Government land of the Cattle Market, on the north-east corner by the Orphanage Road; on the east by the premises of the Zoological Gardens and the Meteorological Observatory compound; on the south by the land of the lines of the Governor's Body Guard; and on the west by the compound of St. Stephen's Parsonage and Diamond Harbour Road.”

**THE SECOND SCHEDULE.**

*(See section 8.)*

**LIST OF FUNDS.**

1. Provident Fund.
2. Retiring Allowance Fund.
3. Apprentice Fund.
4. Thompson “Rex Ludorum” Fund.
5. Samuel Benjamin Taylor Fund.





# Bengal Act III of 1925.

## (The Bengal Highways Act, 1925.)<sup>1</sup>

(24th September 1925.)

*An Act to provide for the better maintenance and control of Government roads in Bengal.*

WHEREAS it is expedient to provide for the regulation and safety of traffic on Government roads in Bengal, for the prevention of obstruction and encroachments, and of nuisances on or near such roads, for the preservation of such roads, and for the temporary closing of such roads for repairs or other works, or for public purposes;

5 & 6, Geo.  
V, c. 61;  
6 & 7, Geo.  
V, c. 37;  
9 & 10,  
Geo. V, c.  
101.

And whereas the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Highways Act, 1925.

Short title,  
and comment.  
ment.

(2) It shall extend to the whole of Bengal.

(3) It shall come into force on such date<sup>2</sup> as the [Provincial Government] may, by notification in the [Official Gazette], direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definition.

“Government road” means a road vested in [the Crown], or under the control and administration of, the Public Works Department of the [Provincial Government], and includes—

(a) the slope, berm, borrow-pits and side-drains of any such road;

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1925, pt. IV, p. 7; and for proceedings in Council, see the Bengal Legislative Council Proceedings, 1925, Vol. XVIII, pages 69-78.

<sup>2</sup>The Act came into force on the 1st July, 1928—*vide* Notification No. 2C, dated the 6th June, 1928, published in the *Calcutta Gazette*, 1928, Pt. I, p. 1278.

<sup>3</sup>These words were substituted for the words “Local Government” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>These words were substituted for the words “*Calcutta Gazette*,” *ibid.*

<sup>5</sup>These words were inserted by Sch. IV, *ibid.*

(Secs. 3, 4.)

- (b) all lands and embankments vested in, or under the control and administration of, the said Public Works Department, and attached to a Government road;
- (c) all bridges, culverts or causeways built on or across any Government road; and
- (d) all fences and posts on any Government road or on any land attached to a Government road, and all roadside trees on such land:

Provided that nothing in this definition shall affect the provisions of the Calcutta Municipal Act, 1923, or of any rule or by-law made thereunder, in so far as they empower the Corporation of Calcutta to take action in respect of the Government roads now under the control of the Corporation.

Ben. Act  
III of 1923.

**Temporary  
closing of Govern-  
ment road.**

3. The '[Provincial Government] or any officer empowered by the '[Provincial Government] in this behalf may, by public notice, displayed in a conspicuous portion of the road, declare any Government road or part thereof to be closed temporarily for the purpose of repairing such road, or for the purpose of constructing any sewer, drain, culvert or bridge, or for any other similar public purpose:

Provided that the '[Provincial Government] or any officer empowered by the '[Provincial Government] in this behalf shall, before declaring any such road or part thereof to be closed, be bound, where possible, to provide other reasonably sufficient means of access to holdings adjacent to such road or part, if no such means of access already exist:

Provided also that where there is a stretch of road over half a mile in length, the road or part thereof closed at any one time shall not exceed half a mile in length, and that, where possible, in such closed parts, an alternative route shall be provided.

**Power to make  
rules.**

4. (1) The '[Provincial Government] may make rules—

- (i) for the regulation and safety of traffic on Government roads;

<sup>1</sup>See foot-note 3 on p. 573, *ante*.

of 1925.]

(Sec. 5.)

- (ii) for the prevention of obstruction and encroachments and of nuisances on or near such roads;
- (iii) for the preservation of such roads; and
- (iv) for the temporary closing of such roads for repairs or other works, or for the purposes specifically set forth in section 3.

(2) All rules made under this section shall be published in the <sup>1</sup>[*Official Gazette*] and, on such publication, shall have the same effect as if enacted in this Act.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication and to the following further conditions, namely:—

- (a) a draft of the rules shall be published by notification in the <sup>1</sup>[*Official Gazette*] and in local newspapers, and
- (b) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication.

**5.** In making any rule under this Act, the <sup>2</sup>[Provincial Government] may direct that a breach thereof shall be punishable with a fine which may extend to ten rupees, and when the breach is a continuing one, with a further fine not exceeding one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence. **Penalties.**

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<sup>1</sup>See foot-note 4 on p. 573, *ante*.

<sup>2</sup>See foot-note 3 on p. 573, *ante*.



# Bengal Act III of 1926.

## [The Presidency Area (Emergency) Security Act, 1926.]<sup>1</sup>

(25th May 1926.)

*An Act for safeguarding life and property in the  
Presidency Area in times of emergency.*

WHEREAS it is expedient to make provision for the safeguarding of life and property in the Presidency Area in times of emergency;

Preamble.

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

5 & 6 Geo.  
V, c. 61;  
6 & 7 Geo.  
V, c. 37;  
9 & 10 Geo.  
V, c. 101.

It is hereby enacted as follows:—

1. (1) This Act may be called the Presidency Area (Emergency) Security Act, 1926.

Short title,  
extent,  
commencement  
and duration.

(2) It extends to the Province of Bengal.

(3) (a) Section 4 shall come into force on the date or dates on which a state of emergency is declared under section 3 and shall continue in force for three months from such date or dates.

(b) The remainder of the Act shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866, and the Port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908,

(b) "Commissioner of Police" means the officer invested with the administration of the Police in Calcutta under the Calcutta Police Act, 1866, the Calcutta Suburban Police Act, 1866, and the Calcutta Port Act, 1890, and

Ben. Act  
IV of 1866.

Ben. Act II  
of 1866.

XV of  
1908.

Ben. Act  
III of 1890.

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, Extraordinary, dated the 8th May, 1926, p. 4; and for proceedings in Council see the proceedings of the Bengal Legislative Council, 1926, Vol. XXI, pages 8 and 69.

(Secs. 3, 4.)

(c) "Presidency Area" means Calcutta together with—

- (i) the police-stations of Baranagore, Nawapara, Barrackpore, Dum-Dum, Tollygunge, Behala, Metiabruz, Maheshtolla, Bhangore, Titagarh, Khardah and Budge-Budge in the district of the 24-Parganas;
- (ii) the police-stations of Howrah, Sibpore, Malipanchghora, Golabaree, Lilooah, Bally and Bantra in the district of Howrah; and
- (iii) any other area within the 24-Parganas or the district of Howrah or Hooghly, which the <sup>1</sup>[Provincial Government] by notification in the <sup>2</sup>[*Official Gazette*] may include within this definition.

Power to declare  
state of  
emergency.

3. The <sup>1</sup>[Provincial Government], if satisfied that the public tranquillity and security of life and property in the Presidency Area or any part thereof are endangered, may at any time, by notification in the <sup>2</sup>[*Official Gazette*], declare that a state of emergency exists and shall set forth the reasons for such declaration in the notification.

Power to order  
removal of  
turbulent  
character.

4. (1) Whenever the Commissioner of Police or any District Magistrate exercising jurisdiction in the Presidency Area is satisfied that any person within his jurisdiction is committing or has committed or is likely to commit or is assisting or abetting the commission of—

- (a) a non-bailable offence against any person or property, or
- (b) the offence of criminal intimidation, or
- (c) any offence involving a breach of the peace,

so as to be a danger to or cause or be likely to cause alarm to the inhabitants of the Presidency Area or any section thereof, the Commissioner of Police or the District Magistrate, as the case may be, may, subject to the control of the <sup>1</sup>[Provincial Government] by

<sup>1</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>*ibid.* These words were substituted for the words "*Calcutta Gazette*,"

*Presidency Area (Emergency) Security Act, 1926.*     570

of 1926.]

(Secs. 5, 6.)

written order direct such person to remove himself from the Presidency Area within such time and by such route as may be specified in the order and not to return thereto for a period (not exceeding one year) to be specified in the order without the written permission of the Commissioner of Police or the District Magistrate, as the case may be.

(2) An order under sub-section (1) against any person may, unless the Commissioner of Police or the District Magistrate, as the case may be, is satisfied in respect of such person that both he and his father were born in Bengal or that he is a member of a family which has definitely settled in Bengal and is himself so settled, direct that such person shall remove himself from Bengal within such time and by such route as may be specified in the order and shall not return thereto for a period (not exceeding one year) to be specified in the order save with the written permission of the Commissioner of Police or the District Magistrate, as the case may be.

(3) An order under sub-section (1) shall be served personally on the person against whom it is directed in such manner as the authority making the order thinks fit.

5. (1) Before making an order under section 4 the Commissioner of Police or the District Magistrate, as the case may be, shall give an opportunity to the person against whom the order is proposed to be made to show cause against the order, and shall consider such representations as he may make verbally or in writing.

Procedure to be adopted in making order under section 4.

(2) Within forty-eight hours from the making of an order under section 4 the Commissioner of Police or the District Magistrate, as the case may be, shall forward in writing to the '[Provincial Government] his reasons for making the order.

6. When by an order under section 4 any person has been directed to remove himself from Bengal and has complied with the order, the Commissioner of Police or the District Magistrate, as the case may be, may, of his own motion or upon application made to him in this behalf, if he is satisfied that both such person and the father of such person were born in Bengal or that such person is a member of a family which has definitely

Power to modify order under section 4.



**580 The Presidency Area (Emergency) Security  
Act, 1926.**

**Act III of 1926.]**

**(Secs. 7-9.)**

settled in Bengal and is himself so settled, modify the order in such manner as to permit such person to return to and remain in any part of Bengal outside the Presidency Area.

**Right of appeal.**

**7.** When an order has been served on any person under section 4 and has been complied with by him, his agent authorised by him in writing may petition the <sup>1</sup>[Provincial Government] to revoke or modify the order and thereupon the <sup>1</sup>[Provincial Government] shall consider such facts and circumstances relating to the case as may be placed before it, and may confirm, modify or revoke the order.

**Failure to comply  
with order.**

**8.** Any person who, having been directed by an order made and served on him under section

(a) to remove himself from the Presidency Area or from Bengal, fails to remove himself therefrom within the time specified in the order,

(b) not to return to the Presidency Area or Bengal within a specified period, returns thereto within such period without the written permission of the Commissioner of Police or the District Magistrate, as the case may be,

may be arrested without a warrant by any police-officer, and—

(i) may be removed in police custody outside the Presidency Area or Bengal, as the case may be, or

(ii) on conviction before a Presidency Magistrate or a Magistrate of the first class, may be punished with rigorous imprisonment for a term which may extend to one year.

**Indemnity.**

**9.** No suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Act.

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<sup>1</sup>See foot-note 1 on p. 578, ante.

# **Bengal Act IV of 1926.**

## **(The Howrah Bridge Act, 1926.)**

### **CONTENTS.**

#### **SECTION.**

1. Short title and commencement.
2. Definitions.
3. Provisions of Act to be carried out by body of Commissioners.
4. Repeal of Ben. Act IX of 1871.  
Property and moneys of existing bridge to vest in the Commissioners in trust.
5. Power to construct a new bridge and to take order with existing bridge.
6. Power to raise loans.
7. Power of Provincial Government to order Commissioners to undertake works and raise loans.
8. Power to levy taxes.
9. Collection of taxes.
10. Construction of tramway and contribution therefor.
11. Contribution by Provincial Government.
12. Power to Provincial Government to vary taxes, etc., and make exceptions.
13. Property and moneys to vest in the Commissioners in trust.
14. Accounts.
15. Estimates of income and expenditure.
16. Procedure on failure of local authorities to make payment.
17. Recoveries.
18. Powers in case of default by Commissioners.
- 18A. Exemption of lands and structures of the new bridge from municipal taxation.
19. Power to Provincial Government to make rules.
20. Power to Provincial Government to make by-laws.
21. Indemnity.
22. Penalty for infringement of by-law.
23. Offences and penalties.



# Bengal Act IV of 1926.

## (The Howrah Bridge Act, 1926.)

(The 9th September 1926.)

*An Act to provide for the construction, maintenance and control of a new bridge across the river Hooghly between Calcutta and Howrah.*

WHEREAS it is expedient that a new bridge across the river Hooghly between Calcutta and Howrah be constructed and maintained;

AND WHEREAS the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Howrah Bridge Act, 1926.

Short title and commencement.

(2) It shall come into force on such date<sup>1</sup> as the [Provincial Government] may, by notification, direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "Calcutta" has the same meaning as in clause (11) of section 3 of the Calcutta Municipal Act, 1923;

(2) "the Commissioners" means the Commissioners for the new Howrah Bridge, hereinafter incorporated under the provisions of section 3;

(3) "notification" means a notification published in the [Official Gazette];

<sup>1</sup>For Statement of Objects and Reasons see *Calcutta Gazette*, 1924, Part IV, page 13; and for Proceedings in Council see the Bengal Legislative Council Proceedings, Volume XVI, pages 135-158, Volume XVIII, pages 61-69, Volume XX—No. 3, page 258, and Volume XXII, pages 163-220.

<sup>2</sup>The 1st April, 1927. See notification No. 2C., dated the 30th March, 1927, published in the *Calcutta Gazette* of the 7th April, 1927, Part I, page 699.

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>These words were substituted for the words "*Calcutta Gazette*," *ibid.*

5 & 6, Geo  
V, c. 61;  
6 & 7 Geo.  
V, c. 37;  
9 & 10,  
Geo.  
V, c. 101.

Ben. Act  
III of  
1923.

[Ben. Act IV]

(Secs. 3, 4.)

- (4) "the existing bridge" means the floating bridge across the river Hooghly, the construction of which was authorised by the Howrah Bridge Act, 1871; and

Ben. Act  
IX of 1871.

- (5) "year" means a financial year.

3. (1) The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a body of Commissioners to be called "the Commissioners for the new Howrah Bridge."

(2) Such body shall be a body corporate and have perpetual succession and a common seal, and shall by its corporate name sue and be sued.

(3) The Commissioners for the Port of Calcutta for the time being shall be the Commissioners for the new Howrah Bridge.

(4) The Commissioners shall be entitled to receive such fees for the performance of their duties under this Act as the <sup>1</sup>[Provincial Government] may, by rule, prescribe. Such fees shall be paid from the new Howrah Bridge Trust Fund created by this Act.

Repeal of  
Ben. Act IX  
of 1871.

4. (1) The Howrah Bridge Act, 1871, shall be repealed on and from such date as the <sup>1</sup>[Provincial Government] may, by notification, specify in this behalf; but this repeal shall not affect the past operation of that Act, or anything done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

Ben. Act  
IX of  
1871.

Property and  
moneys of  
existing bridge  
to vest in the  
Commissioners  
in trust.

(2) All properties, funds and dues which on the said date are vested in the Commissioners for the Port of Calcutta in trust for the purposes of the Howrah Bridge Act, 1871, shall from such date vest in them as the Commissioners under this Act in trust for the purposes of this Act and for such purposes may be disposed of by the Commissioners in such manner as they think fit.

(3) All contracts and liabilities which on the said date have been made or incurred by the Commissioners for the Port of Calcutta for the purposes of the Howrah Bridge Act, 1871, may, so far as they are outstanding on such date, be enforced by and against them as the Commissioners under this Act.

(4) All suits and other legal proceedings instituted before the said date by or against the Commissioners for the Port of Calcutta under the Howrah Bridge Act, 1871, may be continued by or against them as the Commissioners under this Act.

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<sup>1</sup>See foot-note 3 on p. 583, ante.

of 1926.]

(Secs. 5-7.)

5. The Commissioners may—

(a) cause a new bridge to be constructed across the river Hooghly between Calcutta and Howrah of such design, and of such materials of such quality, and at such place and with such approaches as the Commissioners, subject to the approval of the <sup>1</sup>[Provincial Government], consider suitable;

Power to construct a new bridge and to take order with existing bridge.

(b) notwithstanding anything contained in the Howrah Bridge Act, 1871, take such order with the existing bridge as the Commissioners, subject to the approval of the <sup>1</sup>[Provincial Government], consider essential in connection with the construction of the new bridge; and

(c) cause the new bridge and its approaches to be maintained and controlled.

Ben. Act  
IX of  
1871.

(1) The Commissioners may <sup>2</sup>[, from time to time,] borrow any sum necessary for carrying out the works specified in clauses (a) and (b) of section 5 <sup>3</sup>[or repaying any loan raised under the provisions of this Act] at such rate of interest, and for such period, and upon such terms as to the time and method of repayment, and on such other terms and conditions, as the <sup>1</sup>[Provincial Government] may approve.

Power to raise loans.

(2) The <sup>1</sup>[Provincial Government] shall have power to guarantee the service and repayment of any loan raised under the provisions of sub-section (1) or any part of such loan.

7. (1) The <sup>1</sup>[Provincial Government] may, by notification, order the Commissioners to undertake the works referred to in section 5 and to <sup>5</sup>[borrow any sum necessary for carrying out the works specified in clauses (a) and (b) of that section] within such period as the <sup>1</sup>[Provincial Government] shall fix, and the Commissioners shall comply with such order.

Power of Provincial Government to order Commissioners to undertake works and raise loans.

<sup>1</sup>See foot-note 3 on p. 583, *ante*.

<sup>2</sup>These words were inserted by s. 2(1) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>3</sup>These words were inserted by s. 2(2), *ibid*.

<sup>4</sup>The proviso was omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>5</sup>These words were substituted for the words "raise the loan referred to in section 6" by s. 3 of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

## (Sec. 8.)

(2) The <sup>1</sup>[Provincial Government] may, by notification, for reasons to be recorded therein, extend the period fixed under the provisions of sub-section (1).

Power to  
levy taxes.

8. It shall be lawful for the <sup>1</sup>[Provincial Government] at any time after the commencement of this Act, to cause to be levied for the purposes of this Act all or any of the following taxes:—

(i) a tax of not more than one-half *per cent.* on the annual valuation of all lands and buildings in Calcutta as determined by the Corporation of Calcutta under Chapter X of the Calcutta Municipal Act, 1923;

Ben. Act  
III of  
1923.

<sup>2</sup>(ia) a tax of not more than one-quarter *per cent.* on the annual valuation of all lands and buildings in the municipality of Howrah as determined under Chapter X of the Calcutta Municipal Act, 1923, as extended to the municipality of Howrah and, until such valuation is made under that Act, on the annual rateable value of holdings situated within that municipality as determined under section 96 of the Bengal Municipal Act, 1884, and continued under the provisions of the Bengal Municipal Act, 1932;

Ben. Act  
III of  
1884.  
Ben. Act  
XV of  
1932.

(ii) a tax of not more than one-quarter *per cent.* on the annual rateable value of holdings situated <sup>3</sup>[within the Tollygunge and South Suburban Municipalities] as determined by the Municipal Commissioners, under section 96 of the Bengal Municipal Act, 1884, <sup>4</sup>[and, on the annual valuation of all lands and buildings situated within the Garden Reach Municipality constituted under the Garden Reach Municipality Act, 1932, as continued under section 13 of that Act, and thereafter on the annual rateable value of holdings situated within that municipality as determined under the Bengal Municipal Act, 1932:]

Ben. Act  
III of  
1932.

<sup>1</sup>See foot-note 3 on p. 583, *ante*.

<sup>2</sup>Clause (ia) was inserted by s. 4(1) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1935).

<sup>3</sup>These words were substituted for the words "within the Municipalities of Howrah and Tollygunge and within the South Suburban municipality" by s. 4(2), *ibid*.

<sup>4</sup>These words were added by s. 4(3), *ibid*.

of 1926.]

(Sec. 8.)

<sup>1</sup>Provided that the tax referred to in clause (i),  
(ia) or (ii) shall not be levied—

- (a) on any land, building or holding which is exempt under the Calcutta Municipal Act, 1923, from the consolidated rate, or, under the Bengal Municipal Act, 1932, from the rate on holdings, as the case may be; and
- (b) on any municipal property which is not intended to be let out to tenants or for otherwise deriving an income therefrom;
- (iii) a tax of not more than two pies on every maund of goods except salt, manganese ore, coal and coke, conveyed on the East Indian Railway and the Bengal-Nagpur Railway into or from Howrah Station;
- (iv) a tax of not more than three pies on every passenger on those railways brought to or taken from the said station:

Ben. Act  
III of  
1923.  
Ben. Act  
XV of  
1932.

Provided that the said tax may in the case of passengers taking suburban season tickets be calculated at the rate of four annas *per mensem* for each such ticket or at such lower rate as the <sup>2</sup>[Provincial Government] may, by notification, prescribe;

- (v) a tax at the rate of six pies in the case of a first class passenger, and at the rate of three pies in the case of a second class passenger travelling by <sup>3</sup>[any steam-vessel plying as a ferry within, or partly within and partly without, the limits of the Port of Calcutta], in respect of each single journey so made by him, the fare of which is one anna or more <sup>4</sup>\*

<sup>4</sup>Provided that the said tax may, in the case of passengers taking season tickets, be calculated at the rate of eight annas *per mensem* for each such first class ticket and at the rate of four annas *per mensem* for each such second class ticket or at such lower rate as the <sup>2</sup>[Provincial Government] may, by notification, prescribe; and

<sup>1</sup>This proviso was inserted by s. 4(4) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>2</sup>See foot-note 3 on p. 583, *ante*.

<sup>3</sup>These words were substituted for the words "the ferry service established by the Commissioners for the Port of Calcutta under the provisions of clause (7a) of section 35 of the Calcutta Port Act, 1890," by s. 4(5) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>4</sup>The word "and" at the end of clause (v) was omitted, and this proviso was added by s. 4(6), *ibid*.



## (Sec. 9.)

- (vi) a tax on all or any classes of vehicle within Calcutta and the municipalities named in <sup>1</sup>[clauses (ia) and] (ii) after consideration of the views of the Corporation of Calcutta or the Commissioners of the municipality concerned, as the case may be, at such rates as the <sup>2</sup>[Provincial Government] may, by notification, prescribe.

<sup>3</sup>*Explanation.*—In this section and in section 9 the word “steam-vessel” means every description of vessel propelled wholly or in part by the agency of steam and includes a vessel which is propelled by electrical or mechanical power.

Collection of  
\_\_\_\_\_

9. (1) The taxes leviable under clauses (i) and (ii) of section 8 shall be treated as if they were a part of the consolidated rate imposed under section 124 of the Calcutta Municipal Act, 1923, or of the <sup>4</sup>[rates] leviable under <sup>5</sup>[section 123 of the Bengal Municipal Act, 1932], as the case may be, and shall be collected by the Corporation of Calcutta and the Commissioners of the municipalities named in clause (ii) of section 8 in the manner provided in the Calcutta Municipal Act, 1923, and the Bengal Municipal Act <sup>6</sup>[1932], respectively.

Ben. Act  
III of  
1923.  
Ben. Act  
XV of  
1932.

<sup>7</sup>(1a) The tax leviable under clause (ia) of section 8 shall be treated as if it were a part of the consolidated rate imposed under section 124 of the Calcutta Municipal Act, 1923, as extended to the municipality of Howrah, and shall be collected by the Commissioners of that municipality in the manner provided in the said Act.

(2) The tax leviable under clause (iii) of section 8 shall be collected on goods imported or exported by rail, by means of a surcharge on freight, by the administration of the railway by which the goods are carried.

(3) The tax leviable under clause (iv) of section 8 shall be collected by means of a surcharge on fares, by the administration of the railway by which the passengers are carried.

<sup>1</sup>These words and letters were substituted for the word “clause” by s. 4(7) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>2</sup>See foot-note 3 on p. 583, *ante*.

<sup>3</sup>This *explanation* was added by s. 4(8) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>4</sup>This word was substituted for the word “rate” by s. 5(1)(i), *ibid*.

<sup>5</sup>These words and figures were substituted for the words and figures “section 85 of the Bengal Municipal Act, 1884” by s. 5(1)(ii), *ibid*.

<sup>6</sup>This figure was substituted for the figure “1884” by s. 5(1)(iii), *ibid*.

<sup>7</sup>Sub-section (1a) was inserted by s. 5(2), *ibid*.

*The Howrah Bridge Act, 1926.*

of 1926.]

(Sec. 10.)

(4) The tax leviable under clause (v) of section 8 shall be collected by means of a surcharge on fares, by <sup>1</sup>[the owner of the steam-vessel by which the passengers are carried].

(5) <sup>2</sup>[Save as provided in sub-section (5a)], the tax leviable under clause (vi) of section 8 shall be collected by the Corporation of Calcutta and the Commissioners of the municipalities referred to in that clause as if they were taxes and fees levied under sections 165 and 184 of the Calcutta Municipal Act, 1923, or taxes and fees levied under <sup>3</sup>[sections 168 and 184 of the Bengal Municipal Act, 1932] as the case may be.

<sup>4</sup>(5a) The tax leviable under clause (vi) of section 8 in the municipality of Howrah shall, save in respect of carts, be collected by the Commissioners of that municipality as if it were a tax levied under section 165 of the Calcutta Municipal Act, 1923, as extended to the municipality of Howrah.

(6) The taxes collected as prescribed in this section shall be paid direct to the Commissioners by the collecting agency at such times as may be prescribed by the <sup>5</sup>[Provincial Government] after making such deduction as the <sup>5</sup>[Provincial Government] may approve to meet any expenses incurred in connection with the levy and collection of the said taxes.

*Explanation* <sup>6</sup>[1].—The word “administration” as used in sub-sections (2) and (3) has the same meaning as in clause (6) of section 3 of the Indian Railways Act, 1890.

<sup>6</sup>*Explanation* 2.—The word “owner” as used in sub-section (4) has the same meaning as in the Indian Steam Vessels Act, 1917.

**10.** (1) Subject to the approval of the <sup>7</sup>[Provincial Government], the Commissioners may authorise any person to construct, maintain and use a tramway or tramways over the new bridge and its approaches on such terms as the Commissioners may consider suitable.

Construction of tramway and contribution therefor.

<sup>1</sup>These words were substituted for the words “the Commissioners for the Port of Calcutta” by s. 5(3) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>2</sup>These words were inserted by s. 5(4)(a), *ibid*.

<sup>3</sup>These words and figures were substituted for the words and figures “sections 131 and 143 of the Bengal Municipal Act, 1884” by s. 5(4)(b), *ibid*.

<sup>4</sup>Sub-section (5a) was inserted by s. 5(5), *ibid*.

<sup>5</sup>See foot-note 3 on p. 583, *ante*.

<sup>6</sup>The existing explanation was numbered as *Explanation* 1 and *Explanation* 2 was added by s. 5(6) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

(Secs. 11, 12.)

(2) When any person is authorised under sub-section (1) to construct, maintain and use a tramway or tramways over the new bridge and its approaches, he shall pay to the Commissioners at such time and in such manner as the Commissioners may, by notification, prescribe, such sum or sums as the Commissioners may, from time to time, require as his contribution for the purposes of sub-section (1):

Provided that if any disagreement arises between the Commissioners and such person, in regard to any of the matters referred to in this sub-section, the question shall be determined by the <sup>1</sup>[Provincial Government].

Contribution  
by Provincial  
Government.

11. The <sup>1</sup>[Provincial Government] shall pay a sum of four lakhs of rupees per annum towards the service and repayment of <sup>2</sup>[any loan] raised under the provisions of section 6:

Provided that, if the <sup>1</sup>[Provincial Government] in accordance with the provisions of section 12 reduce the rate of the taxes leviable under clauses (i) <sup>3</sup>[, (ia)] and (ii) of section 8 or under <sup>4</sup>[any] of those clauses, they may also reduce the amount of the said contribution by a sum proportionate to the amount by which the total yield of the taxes levied under those <sup>5</sup>[three] clauses during the year following such reduction is less than the total yield of the said taxes during the preceding year.

Power to  
Provincial  
Government  
to vary taxes,  
etc., and make  
exceptions.

12. The <sup>1</sup>[Provincial Government] may, by notification, subject to the provisions of section 8—

- (i) vary the rates at which the taxes and other payments leviable under that section are to be paid;
- (ii) exempt all or any classes of persons on whom, or of vehicles or goods on which, taxes are leviable under that section from payment thereof:

Provided that the <sup>1</sup>[Provincial Government] may by notification cancel or modify any order made under this section.

<sup>1</sup>See foot-note 3 on p. 533, *ante*.

<sup>2</sup>These words were substituted for the words "the loan" by s. 6(a) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1935).

<sup>3</sup>These brackets and letters were inserted by s. 6(b), *ibid*.

<sup>4</sup>This word was substituted for the word "either" by s. 6(c), *ibid*.

<sup>5</sup>This word was substituted for the word "two" by s. 6(d), *ibid*.

(Secs. 13-16.)

13. (1) All property, movable and immovable, acquired or in any way otherwise procured for the construction, improvement, maintenance and control of the new bridge, and its approaches, and the new bridge and its approaches and all moneys received by the Commissioners under this Act shall vest in the Commissioners in trust for the purposes of this Act.

Property and moneys to vest in the Commissioners in trust.

(2) All moneys received by the Commissioners for the purposes of this Act shall form a separate fund which shall be known as the new Howrah Bridge Trust Fund.

(3) The <sup>1</sup>[Provincial Government] may by rule provide for the payment of moneys into the new Howrah Bridge Trust Fund, for the investment by the Commissioners of moneys received into that fund and for the custody and disbursement of such moneys.

14. The Commissioners shall keep such accounts as the <sup>1</sup>[Provincial Government] may prescribe of all expenditure in or about the construction or maintenance of the new bridge and its approaches, and of the collection of taxes and contributions in relation to the new bridge, and also of the income derived from taxes and contributions. The accounts shall be examined from time to time by auditors appointed in this behalf by the <sup>1</sup>[Provincial Government].

Accounts.

15. The Commissioners shall for each year prepare an estimate of income to be received and expenditure to be incurred by them in accordance with, and for the purposes of, this Act in the manner set forth in sections 69, 70, 71 and 72 of the Calcutta Port Act, 1890.

Estimates of income and expenditure.

Ben. Act  
III of  
1890.

16. If \* \* \* the Corporation of Calcutta or the Commissioners of any of the municipalities named in <sup>2</sup>[clauses (i) and (ii)] of section 8 fail to make any payment as required by section 9, the <sup>1</sup>[Provincial Government] may attach <sup>4</sup>[the Municipal Funds] or any

Procedure on failure of local authorities to make payment.

<sup>1</sup>See foot-note 3 on p. 583, *ante*.

<sup>2</sup>The words "the Commissioners for the Port of Calcutta or" were omitted by s. 7(1) of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1935).

<sup>3</sup>These words and letters were substituted for the word and letters "clause (ii)" by s. 7(2), *ibid*.

<sup>4</sup>These words were substituted for the words "the funds of the Commissioners for the Port of Calcutta or the Municipal Funds, as the case may be, or any of them" by s. 7(3), *ibid*.

## *The Howrah Bridge Act, 1926.*

[Ben. Act IV

(Secs. 17-18A.)

portion thereof, and the provisions of section 118, sub-section (2) of the Calcutta Municipal Act, 1923, shall, with all necessary modifications, be deemed to apply. Ben. Act III of 1923.

### **Recoveries.**

17. Any sum due to the Commissioners under the provisions of this Act shall be recoverable by the Commissioners in the manner provided for the recovery of a public demand.

### **Powers in case of default by Commissioners.**

18. If in the opinion of the <sup>1</sup>[Provincial Government] the Commissioners have made default in the performance of their duties under this Act, the <sup>1</sup>[Provincial Government] may, by notification, dissolve the body established by section 3 and may, by notification, establish another body of trustees for the purpose of this Act, or take under their own management the construction, maintenance, improvement and control of the new bridge and its approaches and the arrangements for the service and repayment of <sup>2</sup>[any loan] raised under the provisions of section 6; and thereafter for all the purposes of this Act the powers conferred and duties imposed by this Act upon the Commissioners and all contracts entered into or liabilities incurred by the Commissioners under this Act shall be deemed to be transferred to the trustees so appointed or to the <sup>1</sup>[Provincial Government], as the case may be, and the said trustees or the <sup>1</sup>[Provincial Government], as the case may be, may enter on the new bridge and its approaches and may take possession of the same and of all properties and moneys vested by this Act in the Commissioners.

### **Exemption of lands and structures of the new bridge from municipal taxation.**

<sup>3</sup>18A. All lands required for the construction of the new bridge including its foundations, approaches and slopes or for any improvement thereof together with all structures on such lands forming part of the said bridge which vest in the Commissioners under sub-section (1) of section 13, and which are not intended to be let out to tenants or for otherwise deriving an income therefrom shall be exempt from the consolidated rate leviable under section 124 of the Calcutta Municipal Act, 1923, including the rate leviable under the said section as extended to the municipality of Howrah.

<sup>1</sup>See foot-note 3 on p. 583, *ante*.

<sup>2</sup>These words were substituted for the words "the loan" by s. 8 of the Howrah Bridge (Amendment) Act, 1935 (Ben. Act V of 1936).

<sup>3</sup>Section 18A was inserted by s. 9, *ibid*.

of 1926.]

(Secs. 19-22.)

**19.** (1) The <sup>1</sup>[Provincial Government] may make rules for carrying out the purposes of this Act.

Power to Provincial Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power the <sup>1</sup>[Provincial Government] may make rules—

- (a) regulating the collection of taxes which may be imposed under this Act and the payment thereof to the Commissioners, and
- (b) prescribing the method of examination by auditors under section 14 of the accounts kept by the Commissioners.

**20.** The <sup>1</sup>[Provincial Government] may, after previous publication, by notification, make by-laws for carrying out the purposes of this Act, and in particular—

Power to Provincial Government to make by-laws.

- (a) for the safe and convenient use of the new bridge and the approaches thereto and any tramway constructed thereon, and
- (b) for the passage of boats and vessels under or through the new bridge.

**21.** No person shall be entitled to any compensation for any loss or injury which he may sustain by reason of any obstruction to the navigation of the river Hooghly which may be caused by operations connected with the dismantling or removal of the existing bridge and its approaches or the construction or repair of the new bridge and its approaches, or for any interference with any rights vested or otherwise, which may result from operations connected with the dismantling or removal of the existing bridge and its approaches or the construction or repair of the new bridge and its approaches.

Indemnity.

**22.** No penalty for any one infringement of a by-law shall exceed one hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees *per diem* for every day after notice of such infringement shall have been given by or on behalf of the Commissioners to the person guilty of such infringement.

Penalty for infringement of by-law.

<sup>1</sup>See foot-note 3 on p. 583, *ante*.

[Ben. Act IV of 1926.]

(Sec. 23.)

**Offences and  
penalties.**

23. The offences mentioned in column 1 of the following table shall be punishable to the extent mentioned in column 2 thereof with reference to such offences respectively:—

1	2
(1) Contravening any rule made under section 19.	Fine not exceeding five hundred rupees.
(2) Wilfully evading or attempting to evade payment of any contribution, or tax payable under this Act.	Fine which may extend to fifty rupees or imprisonment which may extend to 14 days or both.

# Bengal Act I of 1927.

## (THE CALCUTTA VEHICLES ACT, 1927.)<sup>1</sup>

(20th October 1927.)

*An Act to provide for the better control of horse-drawn vehicles in Calcutta.*

WHEREAS it is expedient to provide for the better control of horse-drawn vehicles in Calcutta;

It is hereby enacted as follows:—

### PART I.

#### Preliminary.

1. (1) This Act may be called the Calcutta Vehicles Act, 1927.

Short title,  
extent and  
commence.

(2) It shall apply in the first instance only to Calcutta.

(3) It shall come into force on such date<sup>2</sup> as the <sup>3</sup>[Provincial Government] may, by notification, direct.

2. The <sup>3</sup>[Provincial Government] may, by notification—

Further  
provisions  
as to  
extent.

(a) extend this Act or any portion thereof, to any town or local area other than Calcutta; and

(b) exclude from, or include in, Calcutta or any other town or local area to which this Act is extended under clause (a), any local area in the vicinity of the same and defined in the notification:

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1927, Pt. IV, page 44; and for proceedings in Council, see the proceedings of the Bengal Legislative Council, 1927, Vol. XXVI, p. 169.

<sup>2</sup>The Act came into force on the 1st August, 1928—vide Notification No. 3263Pl., dated the 29th June, 1928, published in the *Calcutta Gazette*, 1928, Pt. I, p. 1419.

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4(I) of the Government of India (Adaptation of Indian Laws) Order, 1937.



# *The Calcutta Vehicles Act, 1927.*

[Ben. Act I

(Part I.—Preliminary.—Part II.—Provisions of General Application.—Secs. 3, 4.)

Provided that no notification under this section shall be published in respect of any area included in a Military Cantonment without the previous sanction of the <sup>1</sup>[Central Government]:

Provided also that, before finally publishing any notification under this section, <sup>2</sup>[Provincial Government] shall publish a draft of the same in such manner as it may think fit, and any rate-payer or inhabitant of the area affected by such draft may, if he objects to the draft, submit his objection in writing to the <sup>3</sup>[Provincial Government] within six weeks from its publication, and the <sup>2</sup>[Provincial Government] shall take such objection into consideration.

## Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Calcutta" means subject to the exclusion or inclusion of any local area by notification under clause (b) of section 2, the area described in Schedule I to the Calcutta Municipal Act, 1923;

Ben. Act  
III of  
1923.

(2) "notification" means a notification published in the <sup>3</sup>[Official Gazette];

(3) "prescribed" means prescribed by rules under this Act;

(4) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public are granted access or over which they have a right to pass;

(5) "vehicle" means any wheeled vehicle drawn by a horse or horses and used for the conveyance of human beings; but does not include a hackney-carriage as defined in section 4 of the Calcutta Hackney-carriage Act, 1919.

Ben. Act IV  
I of 1919.]

## PART II.

### Provisions of General Application.

4. (1) No person under the age of eighteen years shall drive a vehicle in any public place.

Prohibition  
of driving  
vehicles by  
persons  
under  
eighteen.

<sup>1</sup>These words were substituted for the words "Governor General in Council," by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 3 on p. 595, ante.

<sup>3</sup>These words were substituted for the words "Calcutta Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1927.]

*(Part II.—Provisions of General Application.—Part  
III.—Licensing and control.—Secs. 5-9.)*

(2) No owner or person in charge of a vehicle shall allow any person under the age of eighteen years to drive the same in any public place; and in the event of a contravention of sub-section (1), the Court may presume that the vehicle was driven with the consent of the owner or person in charge.

5. The person in charge of a vehicle shall cause the vehicle to stop and to remain stationary so long as may reasonably be necessary—

Duty to stop vehicle for regulating traffic and in case of accident.

(a) when required to do so by any police-officer for the purpose of regulating traffic or of ascertaining his name and address with a view to prosecuting such person under this Act or for any purpose connected with the enforcement of the provisions of this Act or the rules thereunder, or

(b) when he knows or has reason to believe that an accident has occurred to any person or to any animal or conveyance in charge of a person owing to the presence of the vehicle, and he shall also give his name and address and the name and address of the owner of such vehicle, to any police-officer in uniform present or to any person reasonably requesting such names and addresses.

6. Whoever drives a vehicle in a public place recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the place, and the amount of traffic which actually is at the time or which might reasonably be expected to be, in the place, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

Reckless driving.

### PART III.

#### Licensing and Control.

7. No person shall drive a vehicle in a public place unless he is licensed in the prescribed manner, and no owner or person in charge of a vehicle shall allow any person who is not so licensed to drive it.

Licensing of drivers.

8. The holder of a licence shall not allow it to be used by any other person.

Transfer of licence.

9. The driver of a vehicle shall produce his licence upon the spot when required by any police-officer to do so.

Production of licence.

*(Part III.—Licensing and control.—Secs. 10-12.)*

Extent of  
validity of  
licence to  
drive.

Registration  
of vehicles.

Power of  
Provincial  
Government  
to make rules.

**10.** Every licence to drive a vehicle shall be valid in such area as may be specified therein.

**11.** (1) The owner of every vehicle shall cause it to be registered in the prescribed manner.

(2) Such registration shall be valid in such area as may be specified in the certificate of registration.

**12.** (1) The <sup>1</sup>[Provincial Government], subject to the condition of previous publication, shall make rules for the purpose of carrying into effect the provisions of this Act and of regulating, in the whole or any part of Bengal, the use of vehicles or any class of vehicles in public places.

(2) In particular, and without prejudice to the generality of the foregoing powers, the <sup>1</sup>[Provincial Government] may make rules for all or any of the following purposes, namely:—

- (a) providing for the registration of vehicles, and the conditions subject to which they may be registered, the fees payable in respect of and incidental to registration, the notification of any changes of ownership, and the area in which, and the duration for which, certificates of registration shall be valid;
- (b) providing for facilitating the identification of vehicles by the assignment to them of distinguishing numbers and the displaying upon them of number and name plates, or in any other manner;
- (c) regulating the construction and equipment of vehicles, including the provision and use of lights, bells or other appliances;
- (d) prescribing the authority by which, and the conditions subject to which, drivers of vehicles or any class of such drivers may be licensed, the fees payable in respect of such licences, and the area within which, and the duration for which licences shall be valid;
- (e) prescribing the authority by which, and the conditions and limitations subject to which, licences may be suspended or cancelled;
- (f) prescribing the precautions to be observed when vehicles are standing in any public place;
- (g) prohibiting or regulating the driving of vehicles in public places, where their use may, in the

<sup>1</sup>See foot-note 3 on p. 595, ante.

of 1927.]

(Part III.—Licensing and control.—Part IV.—  
Miscellaneous.—Secs. 13-16.)

opinion of the <sup>1</sup>[Provincial Government], be attended with danger or inconvenience to the public;

- (h) prescribing the authority who shall give and the manner of giving the notice referred to in section 13; and
- (i) providing generally for the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property, or of obstruction to traffic.

(3) All rules made under this section shall be published in the <sup>2</sup>[Official Gazette]; and, on such publication, shall have effect as if enacted in this Act.

13. The prescribed authority shall give, in the prescribed manner, public notice of any rule, made by the <sup>1</sup>[Provincial Government] under section 12, prohibiting or regulating the driving of vehicles in any public place; and for the purpose of giving effect to any such rule, shall display conspicuous notices at or near the place to which the rule refers.

Posting of notices.

14. The <sup>1</sup>[Provincial Government] may, by notification, exclude any area specified in such notification from the operation of this Part; and may, by a like notification, exempt either generally or for a specified period any vehicle or class of vehicles from the operation of all or any of the provisions of this Part.

Power to Provincial Government to exclude areas and to exempt vehicles from this Part.

## PART IV.

### Miscellaneous.

15. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to one hundred rupees, and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to two hundred rupees.

Penalties.

16. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

Cognisance of offences.

<sup>1</sup>See foot-note 3 on p. 595, ante.

<sup>2</sup>See foot-note 3 on p. 596, ante.

## (Part IV.—Miscellaneous.—Sec. 17.)

Cancellation  
and suspension  
of licence and  
disqualification  
for obtaining  
Licence

17. (1) The <sup>1</sup>[Provincial Government] may, \* \* \* declare any person disqualified for obtaining a licence under this Act either permanently or for such period as it thinks fit.

(2) The prescribed authority may, subject to such conditions and limitations as may be prescribed, cancel or suspend any licence granted under this Act.

(3) Any Court by which any person is convicted of an offence against the provisions of this Act or any rule made thereunder or of any offence in connection with the driving of a vehicle shall, if such person holds a licence under the Act, cause particulars of the conviction to be endorsed thereon and may, in respect of such person and of his licence, if any, exercise the like powers as are conferred by sub-section (1) on the <sup>1</sup>[Provincial Government] and by sub-section (2) on the prescribed authority:

Provided that no order made by a Court under this sub-section shall affect any person or licence for a period exceeding one year from the date of such conviction.

(4) Any Court before which the holder of a licence under this Act is accused of any offence mentioned in sub-section (3) may suspend such licence until the termination of the proceedings before it.

(5) A copy of every order of cancellation, suspension or disqualification made under this section in respect of a licence or the holder of a licence shall be endorsed on the licence, and a copy of every endorsement, in accordance with the provisions of this section, shall be sent to the authority by which such licence has been granted.

(6) Every holder of a licence shall, when called upon to do so, produce his licence before any authority acting under this section.

(7) A person whose licence has been cancelled or suspended in accordance with the provisions of this section, shall, during the period for which such order of cancellation has effect, or during the period of suspension, as the case may be, be disqualified for obtaining a licence.

(8) No person whose licence has been endorsed or who has been disqualified for obtaining a licence shall apply for, or obtain, a licence without giving particulars of such endorsement or disqualification..

<sup>1</sup>See foot-note 3 on p. 595, *ante*.

\*The words "in its discretion" were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

# Bengal Act I of 1928.

## (The Bengal Borstal Schools Act, 1928.)<sup>1</sup>

(16th February 1928.)

*An Act to make provision for the establishment and regulation of Borstal schools for the detention and training of adolescent offenders.*

WHEREAS it is expedient to make provision for the establishment and regulation of Borstal schools for the detention and training of adolescent offenders; Preamble.

5 & 6 Geo  
V. c. 61; 6  
& 7 Geo.  
V. c. 37;  
& 10 Geo.  
V. c. 101.

And whereas the previous sanction of the Governor General has been obtained under sub-section (3) of section 80 A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Borstal Short title  
and extent.  
Schools Act, 1928.

(2) It extends to the whole of Bengal.

2. In this Act, unless there is anything repugnant Definition  
in the subject or context—

(1) “adolescent offender” means any person who has been convicted of any offence punishable with imprisonment or who having been ordered to give security under section 106 or section 118 of the Code of Criminal Procedure, 1898, has failed to do so or who, having been dealt with under the provisions of section 562 of the Code of Criminal Procedure, 1898, has failed to enter into a bond or find securities or who, when the bond has been cancelled under section 126A of that Code, has failed to give fresh security and who at the time of such conviction or failure to give security—

Act V of  
1898.

(i) in any area where the Bengal Children Act, 1922, is in force, is not less than sixteen nor more than twenty-one years of age, or

(ii) in any other area is not less than fifteen nor more than twenty-one years of age;

Ben. Act  
II of 1922.

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1927, Pt. IV, page 38; and for Proceedings in Council, see the Proceedings of the Bengal Legislative Council, Vol. XXVI, pages 79 and 141.

[Ben. Act I]

(Secs. 3-5.)

- (2) "Borstal school" means a school established by the <sup>1</sup>[Provincial Government] under section 3;
- (3) "Inspector-General" means the Inspector-General of Prisons and includes any officer appointed by the <sup>1</sup>[Provincial Government] to perform all or any of the duties imposed, or to exercise all or any of the powers conferred by this Act, on the Inspector-General; and
- (4) "prescribed" means prescribed by rules made under this Act.

Establishment  
of Borstal  
schools.

3. (1) The <sup>1</sup>[Provincial Government] may establish Borstal schools at such places as it may think fit wherein adolescent offenders may be detained and given such industrial training and other instruction and be subjected to such disciplinary measures and moral influences as in the opinion of the <sup>1</sup>[Provincial Government] will conduce to their reformation and the prevention of crime.

(2) For every Borstal school, a Visiting Committee shall be appointed in such manner as may be perscribed and the names of the members of the Visiting Committee or, when a member is appointed *ex-officio*, the office by virtue of which he has been appointed shall be published in the <sup>2</sup>[Official Gazette].

Application  
of the Prisons  
Act, 1894,  
and the  
Prisoners  
Act, 1900.

4. Subject to the provisions of this Act, the provisions of the Prisons Act, 1894, and the Prisoners Act, 1900, shall apply to a Borstal school established under this Act as if it were a prison and an inmate thereof a prisoner. IX of  
1894.  
III of  
1900.

Power of  
Court to  
make order  
for detention  
in Borstal  
school.

5. (1) If it appears to the High Court, a Court of Session or the Court of a District Magistrate, a Sub-divisional Magistrate, a salaried Presidency Magistrate or any Magistrate of the first class specially empowered by the <sup>1</sup>[Provincial Government] in this behalf in any case that comes before such Court originally, on appeal or in revision that an adolescent offender convicted by such Court or any Court subordinate to it or failing to obey an order made by such Court or any Court subordinate to it to give security under section 106 or section 118 or to enter into a bond or find security under

<sup>1</sup>These words were substituted for the words "Local Government" paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "Calcutta Gazette," *ibid.*

of 1923.)

(Sec. 6.)

Act V of  
1898.

section 562 or section 126A of the Code of Criminal Procedure, 1898, should be detained in a Borstal school, the Court may, in lieu of passing a sentence of imprisonment, make an order for the detention of the adolescent offender in a Borstal school for a term which shall not be less than two and shall not exceed three years.

(2) Before making an order under sub-section (1) the Court shall—

- (a) inquire into the age of the offender and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his approximate age;
- (b) after considering any report or representation which may be made to it as to the desirability of the detention of the adolescent offender in a Borstal school, satisfy itself that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to profit by such detention.

6. (1) If any Court not empowered to pass an order of detention in a Borstal school under sub-section (1) of section 5 is of opinion that an adolescent offender who has been convicted by such Court or having been ordered by such Court to give security has failed to do so is a proper person to be detained in a Borstal school, the Court may, in lieu of passing sentence, record such opinion and submit the record of the case and forward the adolescent offender to or take bail for his appearance before the District Magistrate or Subdivisional Magistrate to whom he is subordinate or a salaried Presidency Magistrate.

Procedure where the Court is not empowered to pass an order of detention in a Borstal school.

(2) Before forwarding an adolescent offender or taking bail for his appearance in accordance with the provisions of sub-section (1) the Court shall make the inquiry and record the finding prescribed in clause (a) of sub-section (2) of section 5 in respect of such adolescent offender.

(3) A District Magistrate, Subdivisional Magistrate or salaried Presidency Magistrate to whom an adolescent offender is forwarded or before whom an adolescent offender appears in accordance with the provisions of sub-section (1) may make such further inquiry (if any) as he may think fit and may, subject to the conditions contained in clause (b) of sub-section (2) of section 5, make an order for the detention of the adolescent offender in a Borstal school for a term which shall not be less than two and shall not exceed three years, or may return the record of the case to the Court which



(Secs. 7-9.)

tried it for passing such sentence as that Court may think fit.

**Appeal.**

7. (1) Any adolescent offender in respect of whom an order of detention in a Borstal school is made under section 5 or section 6 by a Court in any case that comes before it originally may appeal—

- (a) if the order is made by a Court of Session or a Court of a salaried Presidency Magistrate to the High Court; or
- (b) if the order is made by the Court of any Magistrate other than a salaried Presidency Magistrate, to the Court of Session;

within two months from the date of such order.

(2) The procedure prescribed for appeals in Chapter XXXI of the Code of Criminal Procedure, 1898, shall apply as far as possible to appeals under this section. Act V of 1898.

(3) The Appellate Court may dismiss the appeal or may—

- (a) reverse the order and make any other order or pass any sentence which might have been lawfully made or passed in respect of the adolescent offender by the Court which passed the order of detention; or
- (b) alter the term of detention subject to the limits prescribed in sub-section (1) of section 5.

**Procedure after making order under section 5.**

8. (1) Every adolescent offender directed by a Court to be sent to a Borstal school shall be forthwith sent to the place of intermediate custody prescribed in this behalf in respect of such Court.

(2) A copy of the order of the Court directing the adolescent offender to be detained in a Borstal school shall forthwith be sent by the Court to the Inspector-General, who shall take immediate steps for the removal of the adolescent offender from the place of intermediate custody to a Borstal school as soon as may be practicable.

(3) The period during which the adolescent offender is kept in the prescribed place of intermediate custody shall, for the purposes of computing his total period of detention in a Borstal school, be deemed to be part of that detention.

**Limitation on powers conferred by section 5.**

9. Any person detained in a Borstal school for failure to furnish security when ordered to do so under section 106, section 118, section 562 or section 126A of the Code of Criminal Procedure, 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the Code.

of 1928.]

(Secs. 10-12.)

10. If the Inspector-General is satisfied that any adolescent offender sentenced to undergo imprisonment in a jail or detention in a reformatory school is a proper person to be detained in a Borstal school, he may, subject to the prescribed conditions, direct that the adolescent offender shall be transferred to a Borstal school and there be detained for the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall thereupon apply to such person as if he had been originally sentenced to detention in a Borstal school.

Power of Inspector-General to transfer adolescent prisoners to Borstal school.

11. The Inspector-General may at any time order an adolescent offender to be removed from one Borstal school to another such school:

Removal from one school to another.

Provided that the total period for which the adolescent offender was ordered to be detained in a Borstal school shall not be increased by such removal.

12. (1) Subject to the prescribed conditions, the Inspector-General may, on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an adolescent offender in a Borstal school, if he is satisfied that there is a reasonable probability that the adolescent offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written license in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

Power to release on license.

- (a) <sup>1</sup>[servant of the Crown],
- (b) secular institution,
- (c) religious society, or
- (d) responsible person,

as may be approved by the Inspector-General and willing to take charge of the adolescent offender:

Provided that if in any case the Inspector-General does not accept the recommendation of the Visiting Committee under this sub-section, he shall <sup>2</sup>[report to the Provincial Government] his reasons for not accepting the recommendation:

Provided also that no adolescent offender shall be permitted by license to live under the supervision and

<sup>1</sup>These words were substituted for the words "officer of Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>These words were substituted for the words "report to Government", *ibid.*

## (Secs. 13-15.)

authority of a religious society professing a religion other than the religion of the adolescent offender except with his consent or that of his guardian, if any.

(2) A license under this section shall be in force until the expiry of the term for which the adolescent offender was ordered to be detained in a Borstal school, unless sooner revoked or forfeited.

(3) The period during which an adolescent offender is absent from a Borstal school during the continuance of a license granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

**Revocation  
of license.**

**13.** (1) Subject to the prescribed conditions, the Inspector-General may at any time, with the approval of the <sup>1</sup>[Provincial Government] and shall, at the request of the institution, society or person under whose supervision and authority the adolescent offender has by license been permitted to live, revoke a license granted under section 12, and upon such revocation the adolescent offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school.

(2) If an adolescent offender removes himself from the supervision of the institution, society or person under which he was by license permitted to live, his license shall be deemed to have been revoked from the date on which he has so removed himself.

**of  
police.**

**14.** Any police-officer, not below the rank of a Sub-Inspector of Police may, without orders from a Magistrate and without warrant, arrest an adolescent offender who has escaped from a Borstal school or removed himself from the supervision of the institution, society or person under which he was permitted to live by license under section 12, and shall send him, if so arrested, in custody to the Borstal school in which he was last detained.

**Transfer of  
incurrigibles,  
etc., to**

**15.** Notwithstanding anything elsewhere contained in this Act, if an adolescent offender detained in a Borstal school—

(a) is reported to the <sup>1</sup>[Provincial Government] by the Visiting Committee of such school to be incorrigible or to be exercising a bad influence on the other inmates of the school, or

<sup>1</sup>See foot-note 1 on p. 602, *ante*.

of 1928.]

(Sec. 16.)

- (b) escapes from the Borstal school or removes himself from the supervision of the institution, society or person under which he was permitted to live by license under section 12,

the <sup>1</sup>[Provincial Government] may alter the unexpired residue of the term of detention to such term of imprisonment of either description as the <sup>1</sup>[Provincial Government] may determine:

Provided that the period of imprisonment shall not exceed—

- (a) such unexpired residue, or  
(b) the maximum period of imprisonment provided by law for the offence or the failure to give security, as the case may be, in consequence of which the adolescent offender was ordered to be detained in a Borstal school,

whichever is less:

Provided further that no such adolescent offender shall be ordered by the <sup>1</sup>[Provincial Government] to be punished with rigorous imprisonment unless such imprisonment was provided by law for the original offence or the failure to give security, as the case may be, in consequence of which he was ordered to be detained in a Borstal school.

**16.** (1) The <sup>1</sup>[Provincial Government] may make Rules. rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power,, the <sup>1</sup>[Provincial Government] may make rules to provide for all or any of the following matters, namely:—

- (a) the control and management of Borstal schools;  
(b) the appointment, powers and duties of officials in such schools;  
(c) the constitution, powers and duties of Visiting Committees;  
(d) the classification, treatment, maintenance, education, industrial training and control of the inmates of Borstal schools;  
(e) the regulation of the powers of the Inspector-General under sections 10, 12 and 13

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<sup>1</sup>See foot-note 1 on p. 602, *ante*.

[Ben. Act I of 1928.]

(Sec. 16.)

(f) the prescribing of places of intermediate custody in respect of Courts to which such Courts may order adolescent offenders to be sent; and

(g) the form and conditions of licenses granted under section 12.

(3) All rules made under this section shall be published in the <sup>1</sup>[*Official Gazette*] and, on such publication, shall have the same effect as if enacted in this Act.

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<sup>1</sup>See foot-note 2 on p. 602, *ante*.

# Bengal Act VI of 1930.

## (THE BENGAL CRIMINAL LAW AMENDMENT ACT, 1930.)<sup>1</sup>

(16th October 1930.)

*An Act to supplement the ordinary criminal law in  
Bengal.*

WHEREAS it is expedient to supplement the ordinary criminal law in Bengal;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act:—

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Criminal Law Amendment Act, 1930.

Short title,  
commencement  
and extent.

(2) It shall come into force on the nineteenth day of October, 1930.

(3) It extends to the whole of Bengal.

2. (1) <sup>3</sup>[Where, in the opinion of the Provincial Government<sup>4</sup>, there are reasonable grounds for believing that any person—

Power of  
Provincial  
Government to  
deal with certain  
suspects.

(i) is a member of an association of which the objects and methods include the commission of any offence included in the First Schedule or the doing of any act with a view to interfere by violence or threat of violence, with the administration of justice; or

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1930, Part IV, page 125; and for proceedings in Council, see the Proceedings of the Bengal Legislative Council, Vol. XXXV, pages 600 and 688.

<sup>2</sup>Sub-section (4) was omitted by s. 13 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>3</sup>These words were substituted for the original words by s. 2 of the Bengal Criminal Law Amendment Act, 1932 (Ben. Act IV of 1932).

<sup>4</sup>The words "Provincial Government" were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 19

5 & 6  
Geo. V,  
c. 61;  
6 & 7  
Geo. V,  
c. 37;  
9 & 10  
Geo. V,  
c. 101.

## (Sec. 2.)

- (ii) has been or is being instigated or controlled by a member of any such association with a view to the commission or doing of any such offence or act; or
- (iii) has done or is doing any act to assist the operations of any such association;

the Provincial Government<sup>1</sup> may, by order in writing,] give all or any of the following directions, namely, that such person—

- (a) shall notify his residence and any change of residence to such authority as may be specified in the order;
- (b) shall report himself to the police in such manner and at such periods as may be so specified;
- (c) shall conduct himself in such manner or abstain from such acts as may be so specified;
- (d) shall reside or remain in any area so specified;
- (e) shall not enter, reside in, or remain in any area so specified;
- (f) shall be committed to custody in jail;

and may at any time add to, amend, vary or rescind any order made under this section:

Provided that such order shall be reviewed by the <sup>1</sup>[Provincial Government] at the end of one year from the date of making of the order, and shall not remain in force for more than one year unless upon such review the <sup>1</sup>[Provincial Government] directs its continuance.

(2) The <sup>1</sup>[Provincial Government] in its order under sub-section (1) may direct—

- (a) the arrest without warrant of the person in respect of whom the order is made at any place where he may be found by any police officer or by any <sup>2</sup>[servant of the Crown] to whom the order may be directed or endorsed by or under the general or special authority of the <sup>1</sup>[Provincial Government];

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<sup>1</sup>See foot-note 4 on p. 609, *ante*.

<sup>2</sup>These words were substituted for the words "Officer of Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1933.]

(Sec. 2A.)

- (b) the search of any place specified in the order which in the opinion of the <sup>1</sup>[Provincial Government] has been, is being, or is about to be used by such person, for the purpose of doing any act, or committing any offence, of the nature described in sub-section (1).

**2A.** (1) Where, in the opinion of a District Magistrate, there are reasonable grounds for believing that any person within the district of which such Magistrate is in charge—

**Power of District Magistrate to deal with certain youthful persons.**

- (i) is under the age of twenty-one years,
- (ii) is ordinarily resident within the said district, and
- (iii) is consorting with a member of any association referred to in clause (i) of sub-section (1) of section 2,

the District Magistrate may, in accordance with rules to be made in this behalf under section 13 and after consultation, where practicable, with the parent or guardian of such person, by order in writing, give such directions regulating the conduct or restricting the movements of such person or prescribing the place where he shall reside within the district, or such other directions, as the District Magistrate may consider necessary for the purpose of protecting such person from the influence of members of and persons connected with any association referred to in clause (i) of sub-section (1) of section 2 and may, at any time, add to, amend, vary or rescind any order made under this section:

Provided that such order shall be reviewed by the District Magistrate within one year from the date of making the order, and shall not remain in force for more than one year unless upon such review the District Magistrate directs its continuance.

(2) The District Magistrate in his order under sub-section (1) may, in order to secure compliance with the order, direct the arrest without warrant of the person in respect of whom the order is made at any place where he may be found by any police officer or by any <sup>2</sup>[servant of the Crown] to whom the order may be

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<sup>1</sup>See foot-note 4 on p. 609, *ante*.

<sup>2</sup>Section 2A was inserted by s. 14 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>3</sup>See foot-note 2 on p. 610, *ante*.



(Sec. 3.)

directed or endorsed under the general or special authority of the <sup>1</sup>[Provincial Government].

(3) The <sup>1</sup>[Provincial Government] may, at any time, cancel or revise any order made under this section.

(4) When, in the opinion of the District Magistrate, a person in respect of whom an order under sub-section (1) has been made attains the age of twenty-one years the District Magistrate shall report the case to the <sup>1</sup>[Provincial Government] and the order shall be deemed to continue in force for six months from the date of such report unless it is cancelled in the meantime.

*Explanation 1.*—In this section the word “guardian” includes any person who, in the opinion of the District Magistrate, has, for the time being, the charge of or control over the person in respect of whom the order is made.

*Explanation 2.*—For the purpose of sub-section (1) a student of any educational institution shall be deemed to be ordinarily resident, not only within the district in which he ordinarily resides, but also within the district in which such institution is situated.

Service of orders  
under sections  
2 and 2A.

3. <sup>2</sup>[(1)] An order made under sub-section (1) of section 2 <sup>3</sup>[or sub-section (1) of section 2A] shall be served on the person in respect of whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for service of a summons, and upon such service such person shall be deemed to have had due notice thereof.

Act V of  
1898.

<sup>2</sup>(2) If an order made under sub-section (1) of section 2 is not served personally on the person in respect of whom it is made, and due diligence has, in the opinion of the <sup>1</sup>[Provincial Government], been exercised to effect such service, the <sup>1</sup>[Provincial Government] may, by a notification published in the <sup>4</sup>[*Official Gazette*] and in such newspapers as it thinks fit, direct the said person to appear before such <sup>5</sup>[servant of the

<sup>1</sup>These words were substituted for the words “Local Government”, by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>Section 3 was renumbered as sub-section (1) of section 3 and to this section as so renumbered sub-section (2) was added by s. 15 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>3</sup>These words and figures were inserted by s. 15(2), *ibid*.

<sup>4</sup>These words were substituted for the words “*Calcutta Gazette*” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>5</sup>See foot-note 2 on p. 610, *ante*.

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(Sec. 4.)

Crown] at such place and within such period as may be specified in the notification for the purpose of receiving the order.

4. (1) Any <sup>1</sup>[servant of the Crown] authorized in this behalf by general or special order of the <sup>2</sup>[Provincial Government] may arrest without warrant any person against whom a reasonable suspicion exists that he is a person in respect of whom an order might lawfully be made under sub-section (1) of section 2.

Power to arrest without warrant.

(2) Any officer exercising the power conferred by sub-section (1) may, at the time of making the arrest, search any place and seize any property which is, or is reasonably suspected of being, used by such person for the purpose of doing any act, or committing any offence, of the nature described in sub-section (1) of section 2, <sup>3</sup>[and may require in writing any police officer subordinate to him and not below the rank of a Sub-Inspector or any officer in charge of a police-station as defined in the Code of Criminal Procedure, 1898, whether in the same or a different district or jurisdiction to search any such place and seize any such property. The officer to whom such requisition is addressed shall thereupon search the place or places specified in the requisition and forward the property found, if any, to the officer at whose request the search was made. The provisions of the Criminal Procedure Code, 1898, so far as they can be made applicable, shall apply to any search made under this sub-section.]

Act V of 1898.

(3) Any officer making an arrest under sub-section (1) shall forthwith report the fact to the <sup>2</sup>[Provincial Government], and may, by order in writing, commit any person so arrested to custody pending receipt of the orders of the <sup>2</sup>[Provincial Government]; and the <sup>2</sup>[Provincial Government] may by general or special order specify the custody to which such person shall be committed:

Provided that no person shall be detained in custody under this section for a period exceeding fifteen days save under a special order of the <sup>2</sup>[Provincial Government], and no person shall in any case be detained in custody under this section for a period exceeding <sup>4</sup>[two months].

<sup>1</sup>See foot-note 2 on p. 610, *ante*.

<sup>2</sup>See foot-note 1 on p. 612, *ante*.

<sup>3</sup>These words were added by s. 3(1) of the Bengal Criminal Law Amendment Act, 1932 (Ben. Act IV of 1932).

<sup>4</sup>These words were substituted for the words "one month" by s. 3(2), *ibid*.

(Secs. 5-6A.)

**Enforcement of  
orders.**

5. (1) The '[Provincial Government] and every '[servant of the Crown] to whom any copy of any order made under section 2 has been directed or endorsed by or under the general or special authority of the '[Provincial Government] may use any and every means necessary to enforce compliance with such order.

(2) Any officer exercising any of the powers conferred by section 4 may use any and every means necessary to the full exercise of such powers.

**Penalties for  
breaches of  
orders under  
sections 2, 2A  
and 3.**

6. (1) Whoever knowingly and wilfully disobeys any direction in an order made under sub-section (1) of section 2 shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) Whoever knowingly and wilfully disobeys any direction in an order made under sub-section (1) of section 2A shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) Whoever fails to comply with any direction in a notification published under sub-section (2) of section 3 shall, unless he proves that he had no knowledge of the notification, or that it was not possible for him to comply therewith and that he has taken all reasonable steps to make known to the officer before whom he was directed to appear the place where he may be found and the cause which rendered it not possible for him to comply therewith, be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence under this section shall be a cognizable and non-bailable offence for which a warrant shall ordinarily issue in the first instance. Act V of 1898.

**Realisation of  
fine from  
parent or  
guardian.**

6A. (1) Where a person sentenced to fine under sub-section (2) of section 6 is, in the opinion of the

<sup>1</sup>See foot-note 1 on p. 612, ante.

<sup>2</sup>See foot-note 2 on p. 610, ante.

<sup>3</sup>Sections 6 and 6A were substituted for the original section 6 as amended by the Bengal Criminal Law Amendment Act, 1932 (Ben. Act IV of 1932), by s. 16 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

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(Sec. 2.)

Court, ordinarily resident with his parent or guardian, the Court may order that the fine shall be paid by such parent or guardian as if it had been a fine imposed upon the parent or guardian.

(2) Before making an order under sub-section (1), the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conduced to the commission of the offence by neglecting to control the offender.

(3) Where a parent or guardian is ordered to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898.

Act V of 1898.

*Explanation.*—In this section the word “guardian” includes any person who, in the opinion of the Court, has for the time being the charge of or control over the offender.

7. (1) Every person in respect of whom an order has been made under sub-section (1) of section 2<sup>1</sup> [or sub-section (1) of section 2A] shall, if so directed by any officer authorized in this behalf by general or special order of the<sup>2</sup> [Provincial Government],—

Power of photographing, etc., persons in respect of whom order has been made under section 2 or section 2A.

- (a) permit himself to be photographed;
- (b) allow his finger impression to be taken;
- (c) furnish such officer with specimens of his handwriting and signature;
- (d) attend at such times and places as such officer may direct for all or any of the foregoing purposes:

<sup>3</sup>Provided that a person in respect of whom an order has been made under sub-section (1) of section 2A shall not be directed to allow his finger impression to be taken.

(2) If any person fails to comply with or attempts to avoid any direction given in accordance with the

<sup>1</sup> These words and figures were inserted by s. 17(1) of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>2</sup> See foot-note 1 on p. 612, *ante*.

<sup>3</sup> This proviso was added by s. 17(2) of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

(Secs. 8, 9.)

provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**Powers of search.**

8. The power to issue search warrants conferred by section 98 of the Code of Criminal Procedure, 1898, shall be deemed to include a power to issue warrants authorizing the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence specified in the Second Schedule has been, is being, or is about to be committed, and the seizure of anything found therein or thereon which the officer executing the warrant has reason to believe has been, is being, or is intended to be, used for the commission of any such offence; and the provisions of the said Code, so far as they can be made applicable, shall apply to searches made under the authority of any warrant issued under this section, and to the disposal of any property seized in any such search; and an order for search issued by the <sup>1</sup>[Provincial Government] under sub-section (2) of section 2 shall be deemed to be a search warrant issued by a Presidency Magistrate or the District Magistrate having jurisdiction in the place specified therein, and may be executed by the person to whom the order is addressed in the manner provided in this section. Act V of 1898.

**Scrutiny of case by two Judges.**

9. (1) <sup>2</sup>[Within one month from the date of an order by the Provincial Government<sup>1</sup> under sub-section (1) of section 2 or, if such order contains a direction under clause (a) of sub-section (2) of the said section, within one month from the date of the arrest or surrender of the person in respect of whom the order has been made,] the <sup>1</sup>[Provincial Government] shall place before two persons, who shall be either Sessions Judges or Additional Sessions Judges having, in either case, exercised for at least five years, the powers of a Sessions Judge, or Additional Sessions Judge, the material facts and circumstances in its possession on which the order has been based or which are relevant to the inquiry, together with any such facts and circumstances relating to the case which may have subsequently come into its possession, and a statement of the allegations against the

<sup>1</sup>See foot-note 1 on p. 612, *ante*.

<sup>2</sup>These words were substituted for the original words by s. 18 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

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person in respect of whom the order has been made and his answers to them, if furnished by him. The said Judges shall consider the said material facts and circumstances and the allegations and answers and shall report to the '[Provincial Government] whether or not in their opinion there is lawful and sufficient cause for the order.

(2) On receipt of the said report, the '[Provincial Government] shall consider the same and shall pass such order thereon as appears to the '[Provincial Government] to be just or proper.

(3) Nothing in this section shall entitle any person against whom an order has been made under sub-section (1) of section 2 to attend in person or to appear by pleader in any matter connected with the reference to the said Judges, and the proceedings and report of the said Judges shall be confidential.

10. (1) When an order under sub-section (1) of section 2 has been made against a person, the '[Provincial Government] may at any time, without conditions or upon any conditions which such person accepts, direct the suspension or cancellation of such order.

Power to suspend operation of orders under section 2.

(2) If any condition on which an order has been suspended or cancelled is in the opinion of the '[Provincial Government] not fulfilled, the '[Provincial Government] may revoke the suspension or cancellation, and thereupon the person in whose favour such suspension or cancellation was made may, if at large, be arrested by any police officer without warrant, and the order under sub-section (1) of section 2 shall be deemed to be in full force.

(3) If the conditions on which such suspension or cancellation has been made include the execution of a bond with or without sureties, the '[Provincial Government] may at once proceed to recover the penalty of such bond.

(4) A Presidency Magistrate or Magistrate of the first class shall in default of payment of such penalty issue, on application made in this behalf by an officer of the '[Provincial Government] specially empowered, a warrant for the attachment and sale of the movable property belonging to the defaulter or his estate if he be dead. On the issue of such warrant the provisions of

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<sup>1</sup>See foot-note 1 on p. 612, ante.

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sub-sections (3) and (4) of section 514 of the Code of Criminal Procedure, 1898, shall apply to such recovery. Act V of 1898.

Power to  
suspend  
operation of  
orders under  
section 2A.

**10A.** (1) When an order under sub-section (1) of section 2A has been made against a person, the District Magistrate may at any time, without conditions or upon any conditions which such person or the parent or guardian of such person accepts, direct the suspension or cancellation of such order.

(2) If any condition on which an order has been suspended or cancelled is in the opinion of the District Magistrate not fulfilled, the District Magistrate may, after giving such person or the parent or guardian of such person, as the case may be, an opportunity to appear and be heard, revoke the suspension or cancellation, and thereupon the order under sub-section (1) of section 2A shall be deemed to be in full force, and if the conditions on which such suspension or cancellation has been made include the execution of a bond with or without sureties by the parent or guardian of such person, the District Magistrate may at once proceed to  
of the bond.

(3) In default of payment of such penalty, the District Magistrate may issue a warrant for the attachment and sale of the moveable property belonging to the defaulter or his estate if he be dead. On the issue of such warrant the provisions of sub-sections (3) and (4) of section 514 of the Code of Criminal Procedure, 1898, shall apply to such recovery.

*Explanation.*—In this section the word “guardian” has the same meaning as in section 2A.

Visiting Committees.

**11.** (1) The <sup>2</sup>[Provincial Government] shall, by order in writing, appoint such persons as it thinks fit to constitute Visiting Committees for the purposes of this Act, and shall by rules prescribe the functions which these Committees shall exercise.

(2) Such rules shall provide for periodical visits to persons under restraint by reason of an order made under sub-section (1) of section 2.

(3) No person in respect of whom any such order has been made requiring him to notify his residence or

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<sup>1</sup>Section 10A was inserted by s. 19 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>2</sup>See foot-note 1 on p. 612, *ante*.

of 1930.]

(Secs. 12, 13.)

change of residence or to report himself to the police or to abstain from any specified act, shall be deemed to be under restraint for the purpose of sub-section (2).

**12.** The <sup>2</sup>[Provincial Government] shall make to every person, who is placed under restraint by reason of an order made under sub-section (1) of section 2, such monthly allowance in cash or in kind or both for his support, as is, in the opinion of the <sup>2</sup>[Provincial Government], having regard to his other sources of income, adequate for the supply of his wants, <sup>3</sup>[and may also make to any members of his family or near relatives who are dependant on him for support such allowance towards their maintenance as may seem to the Provincial Government<sup>2</sup> appropriate in all the circumstances of the case not exceeding such allowance as, in the opinion of the Provincial Government<sup>2</sup> such person would have been in a position to make if he had not been placed under restraint.]

Allowances to persons under restraint and their dependants.

*Explanation.*—For the purpose of this section a person placed under restraint shall not include a person in respect of whom any order has been made under sub-section (1) of section 2 requiring him to notify his residence or change of residence or to report himself to the police or to abstain from any specific act, other than an act which interferes with his normal trade, business or profession.

**13.** (1) The <sup>2</sup>[Provincial Government] may make rules providing for the procedure to be followed regarding the notification of residence and report to the police by persons in respect of whom orders have been made under section 2, <sup>4</sup>[and for the directions which may be given in an order made under section 2A] and for the place and manner of custody of all persons arrested or committed to or detained in custody under this Act.

Power to make rules.

(2) Such rules shall be published in the <sup>5</sup>[*Official Gazette*], and on such publication shall have effect as if enacted in this Act.

Publication of rules.

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<sup>1</sup>Section 12 was substituted for the original section 12 by s. 5 of the Bengal Criminal Law Amendment Act, 1932 (Ben. Act IV of 1932).

<sup>2</sup>See foot-note 1 on p. 612, *ante*.

<sup>3</sup>These words were substituted for the original words by s. 20 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>4</sup>These words were inserted by s. 21 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>5</sup>See foot-note 4 on p. 612, *ante*.



*The Bengal Criminal Law Amendment  
Act, 1930.*

[Ben. Act VI

(Secs. 14, 15.)

Bar to suits,  
prosecutions  
and other legal  
proceedings.

**14.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Effect of  
the Act.

**15.** Anything done and any action taken under the provisions of the Bengal Criminal Law Amendment Ordinance, 1930, shall be deemed to have been done or taken under the provisions of this Act as if this Act had commenced on the nineteenth day of April, 1930, <sup>1</sup>[and anything done and any action taken under the provisions of the Bengal Criminal Law Amendment Ordinance, 1931, shall be deemed to have been done or taken under the provisions of this Act as amended by the Bengal Criminal Law Amendment Act, 1932, as if this last Act had commenced on the twenty-ninth day of October, 1931.]

Ordi-  
nance  
No. I of  
1930.

Ordinance  
No. IX of  
1931.  
Ben. Act  
IV of 1932.

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<sup>1</sup>These words were added by s. 6 of the Bengal Criminal Law Amendment Act, 1932 (Ben. Act IV of 1932).

of 1930.]

*(The First and Second Schedules.)*

**The First Schedule.**

*(See section 2.)*

**Act XLV**      (1) Any offence punishable under any of the follow-  
**Of 1860.**      ing sections of the Indian Penal Code, namely, sections  
                 <sup>1</sup>[121, 121A, 122, 123, 148, 216], 302, 304, 326, 327, 329,  
                 332, 333, 392, 394, 395, 396, 397, 398, 399, 400, 401,  
                 402, 431, 435, 436, 437, 438, 440, 457 and 506.

**VI of 1908.**      <sup>2</sup>(2) Any offence under the Explosive Substances Act,  
                 1908.

**XI of 1878.**      <sup>2</sup>(3) Any offence under the Indian Arms Act, 1878.

<sup>3</sup>(4) Any attempt or conspiracy to commit, or any  
                 abetment of, any of the above offences.

**The Second Schedule.**

*(See section 8.)*

(a) Any offence punishable under any of the follow-  
ing sections of the Indian Penal Code, namely, sections  
<sup>1</sup>[121, 121A, 122, 123, 148, 216], 302, 304, 326, 327,  
329, 332, 333, 385, 386, 387, 392, 394, 395, 396, 397,  
398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440,  
454, 455, 457, 458, 459, 460 and 506.

(b) Any offence under the Explosive Substances Act,  
1908.

(c) Any offence under the Indian Arms Act, 1878.

(d) Any attempt or conspiracy to commit, or any  
abetment of, any of the above offences.

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<sup>1</sup>These figures were substituted for the figure "148" by ss. 7(a) and 8 of the Bengal Criminal Law Amendment Act, 1932 (Ben. Act IV of 1932).

<sup>2</sup>Paragraphs (2) and (3) were inserted by s. 7(b), *ibid.*

<sup>3</sup>The original paragraph (2) was renumbered as paragraph (4) by s. 7(c), *ibid.*



# **Bengal Act VII of 1930.**

## **THE BENGAL (RURAL) PRIMARY EDUCATION ACT, 1930.**

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# Bengal Act VII of 1930.

(The Bengal (Rural) Primary Education Act, 1930.)<sup>1</sup>

(22nd January 1931.)

*An Act to provide for the extension of primary education in rural areas in Bengal.*

WHEREAS it is expedient to make better provision for the progressive expansion and for the management and control of primary education in rural areas in Bengal, so as to make it available to all children and with a view to make it compulsory within ten years;

AND WHEREAS the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act;

5 & 6 Geo. V, c. 61; 6  
& 7 Geo. V, c. 37; 9  
& 10  
Geo. V, c. 101.

It is hereby enacted as follows:—

## CHAPTER I.

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In sub-section (2) of section 1, for the figures "1884", substitute the figures "1932".

(Substituted by Bengal Act XVI of 1946, section 2 and the First Schedule.)

*[No. 41, dated the 22nd July, 1947.]*  
after be constituted a municipality under any previous  
Ben. Act III of 1884 of the Bengal Municipal Act, 1884<sup>2</sup>.

(3) It shall come into force, in whole or in part, in such districts or parts of districts on such dates as the [Provincial Government] may, by notification, direct and for this purpose different dates may be appointed for different provisions of this Act and different districts, or parts of districts.

<sup>1</sup>For Statement of Objects and Reasons, see *Calcutta Gazette*, 1930, Part IV, p. 90; and for proceedings in Council, see the Proceedings of the Bengal Legislative Council, Vol. XXXV, pages 206, 286, 759 and 847.

<sup>2</sup>Bengal Act III of 1884 has been repealed and re-enacted by the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

<sup>3</sup>These words were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.



**The Bengal (Rural) Primary Education  
Act, 1930.**

[Ben. Act VII.]

**(Chapter I.—Preliminary.—Sec. 2.)**

**Explanation.**—The words “the town of Calcutta” mean, subject to the inclusion of any local area by notification under section 543 of the Calcutta Municipal Act, 1923, and subject to the provisions of section 147 of the Calcutta Improvement Act, 1911, the area described in Schedule I to the Calcutta Municipal Act, 1923;

Ben. Act  
III of 1923.  
Ben. Act  
V of 1911.

Provided that this Act shall not come into force in any cantonment \* \* \* \* \*

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) “attendance” at a school means presence for instruction at a primary school for so many and on such days in the year and at such time or times on each day of attendance as may be required by the prescribed educational authority after consulting the Attendance Committee;
- (2) “Board” means a District School Board constituted under this Act;
- (3) “child” means a child who is not less than six and not more than eleven years of age or other prescribed age;
- (4) “Committee” means the Central Primary Education Committee constituted under this Act;
- (5) “Director of Public Instruction” means the officer designated by this name by the [Provincial Government] for the purposes of this Act;
- (6) “district” has the same meaning as in section 4 of the Cess Act, 1880;
- (7) “District Board” means a District Board constituted under the Bengal Local Self-Government Act of 1885;
- (8) “District Inspector of Schools” means the local executive educational officer in charge of primary education in each district responsible to the Director of Public Instruction;
- (9) “financial year” means a year beginning on the first day of April;
- (10) “guardian” means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who

Ben. Act  
IX of 1880.

Ben. Act  
III of 1885.

<sup>1</sup>The words “without the previous sanction of the Governor General in Council” were omitted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 3 on p. 627, ante.

# The Bengal (Rural) Primary Education Act, 1938.

of 1938.]

## (Chapter II—The Central Primary Education Committee—Sec. 3.)

has accepted or assumed the care, nurture or custody of any child or to whom the care or custody of any child has been entrusted by any lawful authority;

(11) "notification" means a notification published in the *[Official Gazette]*;

Ben. Act  
VI of 1870.

(12) "Panchayat" means a Panchayat appointed under the Village Chaukidari Act, 1870;

(13) "prescribed" means prescribed by rules made under this Act;

(14) "primary education" means education in such subjects and up to such standards as may be prescribed;

(15) "primary school" means a school or department of a school giving instruction in primary education either managed by the Board or recognised as a primary school under section 54;

(16) "public management" in relation to a primary school means management by the Government, or by a District School Board either directly or through its power of delegation to a Union Board, a Union Committee or a Panchayat; all other management shall be deemed to be "private management";

Act V of  
1898.

(17) "subdivision" has the same meaning as in the Code of Criminal Procedure, 1898;

(18) "Union Board" means a Union Board constituted under the Bengal Village Self-Government Act, 1919;

Ben. Act V  
of 1919.

(19) "Union Committee" means a Union Committee constituted under the Bengal Local Self-Government Act of 1885.

Ben. Act  
III of 1885.

## CHAPTER II.

### The Central Primary Education Committee.

3. A Committee, to be called the Central Primary Education Committee, shall be constituted in the manner hereinafter provided, for the purpose of advising the <sup>2</sup>[Provincial Government] on all matters which may be or are to be referred to it under this Act.

Establishment of  
the Central Pri-  
mary Education  
Committee.

<sup>2</sup>These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>See foot-note 3 on p. 627, *ante*.

**The Bengal (Rural) Primary Education  
Act, 1930.**

[Ben. Act VII]

(Chapter II.—The Central Primary Education Com-  
mittee.—Chapter III.—The District School Board.)

Page 630—7

In section 4—

(1) in clause (c) of sub-section (1)—

(a) for the word "five" substitute the word "seven", and

(b) after the words "of whom" insert the words "two shall be women interested in education and"; and

(2) after sub-section (2) add the following sub-section, namely:—

"(3) The Director of Public Instruction, Bengal, shall be *ex-officio* Chairman of the Committee, and there shall be a Secretary of the Committee who shall for the first term of five years be appointed by the Provincial Government from amongst the elected members of the Committee and who shall thereafter be elected in the prescribed manner by the members of the Committee from amongst themselves."

(Substituted, inserted and added by Bengal Act IV of 1943, section 2.)

[No. 31, dated the 22nd May 1943.]

(2) If by such date as the <sup>1</sup>[Provincial Government] may fix, any of the electoral bodies referred to in clause (b) of sub-section (1) fails to elect a person to be a member of the Committee, the <sup>1</sup>[Provincial Government] shall appoint a suitable person in his place and any person so appointed shall be deemed to be a member as if he had been duly elected by such body.

Functions of the  
Committee.

5. The <sup>1</sup>[Provincial Government] may refer any matter to the Committee for its opinion, and shall consult the Committee before making an order under section 21, section 22, or section 51, or a notification under section 56, or a rule under section 66.

### CHAPTER III.

#### The District School Board.

Constitution of  
the Board.

6. When this section comes into force in any district the <sup>1</sup>[Provincial Government] shall establish for such district a District School Board consisting of the following members, namely:—

(a) the District Magistrate, *ex-officio*:

Provided that, on the expiration of two terms of four years mentioned in sub-section (2) of section 10 after the first establishment of the Board, the District Magistrate shall cease to be an *ex-officio* member of the Board;

<sup>1</sup>See foot-note 3, on p. 627, ante.

Page 631—

In section 6—

(1) in clause (h) after the word "two" omit the word "and";

(2) after clause (h), insert the following clause, namely:—

"(hh) in addition to the members referred to in clause (h), two members who shall belong to the Scheduled Castes to be appointed by the Provincial Government; and"; and

(3) in clause (i)—

(a) after the words "teachers of primary schools" add the words "possessing the prescribed qualifications"; and

(b) add the following proviso at the end, namely:—

"Provided that no person shall be eligible for election under this clause who is not entitled to vote at such election."

(Omitted, inserted and added by Bengal Act IV of 1943, section 3.)

[No. 31, dated the 22nd May 1943.]

Page 631—

After section 6, insert the following section, namely:—

"6A. In any district in which Local Boards do not exist, clause (d) of section 6 for districts in which Local Boards do not exist of that section for the words 'one member' the words 'two members', and in the proviso to the said clause for the word 'two' the word 'three', shall be deemed to be substituted".

(Inserted by Bengal Act IV of 1943, section 4.)

[No. 31, dated the 22nd May 1943.]

the number shall in no case be less than two; and

(i) one teacher of a primary school to be appointed by the '[Provincial Government]' for the first term of four years referred to in subsection (2) of section 10 and thereafter to be elected in the prescribed manner by the teachers of primary schools.

7. If, by such date as may be fixed by the '[Provincial Government]'—

(i) the members of the District Board do not elect the members referred to in clause (f) of section 6,

(ii) the members of Union Boards, Union Committees and Panchayats do not elect the members referred to in clause (g) of section 6,

(iii) the teachers of primary schools do not elect the member referred to in clause (i) of section 6,

Procedure in default of election of members.

<sup>1</sup>See foot-note 3 on p. 627, ante.

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Act, 1930.**

**Page 332—**

After section 7, insert the following section, namely:

"7A. A teacher of a primary school, who is appointed or elected as a member of the Board shall cease to be a member of the Board with effect from the date on which he ceases to be a teacher of a primary school."

(Inserted by Bengal Act IV of 1943, section 5.)

[No. 31, dated the 22nd May 1943.]

persons to be such members, and any persons so appointed shall be deemed to be members as if they had been duly elected by the members of the District Board or of Union Boards, Union Committees and Panchayats, or by the teachers of primary schools as the case may be.

**Free  
Vice Page 332—**

To sub-section (1) of section 8, add the following proviso, namely:—

"Provided that a President elected by a Board may, after his election, perform the duties of his office while the question of such approval is pending."

(Added by Bengal Act IV of 1943, section 6.)

[No. 31, dated the 22nd May 1943.]

(2) The Board may from time to time elect, for such period as it thinks fit, one of its members to be Vice-President.

**Elections and  
appointments to  
be notified in  
Official Gazette.**

9. The names of the President, the Vice-President and of the appointed and elected members of the Board or, where the President has been appointed *ex-officio* or a member is an *ex-officio* member, the office by virtue of which he has been appointed President or is a member, shall be published by the '[Provincial Government]' in the '[Official Gazette].'

**Term of office.**

10. (1) The Vice-President and any other appointed or elected member may resign his office by giving notice in writing to the President, and, on such resignation being accepted by the President, shall be deemed to have vacated his office.

(2) Subject to the provisions of this chapter, the appointed or elected members shall hold office for a term of four years, and may, on the expiration of such term, be re-appointed or re-elected.

(3) Notwithstanding the expiration of the term of four years mentioned in sub-section (2) an appointed or elected member shall continue to hold office until the vacancy caused by the expiration of the said term has been filled.

<sup>1</sup>See foot-note 3 on p. 327, ante.

<sup>2</sup>See foot-note 1 on p. 329, ante.

at 1930.]

**(Chapter III.—The District School Board.—  
Secs. 11-13.)**

**11.** (1) The <sup>1</sup>[Provincial Government] may, by notification, remove a President, Vice-President, or member of the Board if he—

- (a) refuses to act or becomes incapable of acting as a member of the Board;
- (b) is declared insolvent;
- (c) has been or is convicted of any such offence or has been or is subjected by a criminal court to any such order as in the opinion of the <sup>1</sup>[Provincial Government] implies a defect of character which unfits him to become or to continue to be a President, Vice-President or member of the Board; or
- (d) without excuse sufficient in the opinion of the <sup>1</sup>[Provincial Government], is absent without the consent of the Board from more than six consecutive meetings of the Board.

(2) The <sup>1</sup>[Provincial Government] may fix a period during which any person so removed shall not be eligible for re-appointment or re-election.

**Page 633—**

In section 12 *after* the words “becomes vacant” *insert* the words, figure and letter “under section 7A or”.

(Inserted by Bengal Act IV of 1943, section 7.)

*See L.N. 31 dated the 22nd May 1943.]*

Provided that no act of the Board, or of its officers, shall be deemed to be invalid by reason only that the number of members of the Board at the time of the performance of such act was less than the number provided by section 6.

**13.** Members (other than *ex officio* members who are <sup>2</sup>[servants of the Crown]) and the establishment of a Board shall be entitled to travelling allowance of the prescribed amount to be paid in the prescribed manner from the District Primary Education Fund for expenses incurred by them in attending meetings of the Board or in performing any duty assigned to them by the Board for the purposes of this Act.

Travelling allowance.

<sup>1</sup>See foot-note 3 on p. 627, *ante*.

<sup>2</sup>These words were substituted for the words “Government officers” by Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1927.

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Act, 1930.*

[Ben. Act No.]

*(Chapter III.—The District School Board.—  
Secs. 14-18.)*

Board to be a  
body corporate.

14. Every Board shall be a body corporate by the name of "the District School Board of (name of district)," shall have perpetual succession and a common seal, and shall by the said name sue and be sued, with power to acquire and hold property, both movable and immovable, and, subject to the prescribed conditions, to transfer any property held by it and to contract and do all other things necessary for the purposes of this Act.

President at  
Meetings.

15. (1) The President, or, in his absence, the Vice-President, shall preside at every meeting of the Board, and shall have a second or casting vote in all cases of equality of votes.

(2) In the absence of both the President and Vice-President, the members present at any meeting shall elect one of their number to preside, who shall have a second or casting vote in all cases of equality of votes.

Meetings of  
Board to be  
public.

16. All meetings of the Board shall be open to the public:

Provided that the person presiding may in any particular case, for reasons to be recorded in writing, direct that the public generally or any particular person shall withdraw.

Interested  
members not to  
vote.

17. No member of the Board shall vote on any question coming before the Board for consideration in which (otherwise than in its general application to all persons and properties within the district) he has a pecuniary interest.

Duties of  
President and  
Vice-President.

18. (1) All orders of the Board shall be carried into effect by the President in whom the entire executive power of the Board shall be vested and who shall be responsible for giving effect to such orders.

(2) The President shall not exercise any power which by this Act is expressly declared to be exercisable by the Board.

(3) The President may authorise the Vice-President by an order in writing to exercise any of the powers conferred or to perform any of the duties imposed on the President by this Act and thereupon the responsibility of the President in respect of such powers and duties shall devolve upon the Vice-President during the continuance of such order.

(4) When the office of President is vacant the Vice-President shall exercise the functions of the President until a new President is appointed.

*The Bengal (Rural) Primary Education  
Act, 1930.*

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of 1930.]

*(Chapter III.—The District School Board.—  
Secs. 19-21.)*

**19.** (1) Every Board may make regulations in regard to the following matters, namely:— Power of Board  
to make  
regulations.

- (i) the time and place of its meetings;
- (ii) the manner in which notice of meetings shall be given;
- (iii) the conduct of proceedings at meetings;
- (iv) the division of duties among the members of the Board;
- (v) the appointment, duties and procedure of special committees consisting wholly of members of the Board or partly of such members and partly of residents within the local jurisdiction of the Board;
- (vi) the persons by whom receipts may be granted for money paid to the Board;
- (vii) the inspection by members of the Board of primary schools situated within its jurisdiction and the inspection of accounts, books, registers, returns, reports and other documents, appertaining to such schools; and
- (viii) the carrying out of the purposes of this Act.

(2) Any regulation made under sub-section (1) which is repugnant to the provisions of any rule made under section 66 shall, to the extent of such repugnancy, but not otherwise, be void.

**20.** The Commissioner of the Division may, by order in writing, suspend the execution of any resolution or order of a Board situate within his jurisdiction and prohibit the doing or completion of any act which is about to be done, or is being done within such jurisdiction in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law. Control by  
Commissioner.

**21.** (1) If at any time it appears to the '[Provincial Government]' that a Board or its President has made default in performing any duty imposed by or under this Act, the '[Provincial Government]' may, by an order in writing, fix a period for the performance of such duty. Control by  
Provincial  
Government.

(2) If the duty is not performed within the period so fixed, the '[Provincial Government]' may appoint a



*(Chapter III.—The District School Board.—  
Secs. 22, 23.)*

person to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to such person by the Board.

(3) If the expense is not so paid, the <sup>1</sup>[Provincial Government] may make an order directing the person having the custody of the District Primary Education Fund to pay to the person appointed under sub-section (2) such expense in priority to any other charges against such fund, and he shall, so far as the funds to the credit of the Board admit, comply with the order of the <sup>1</sup>[Provincial Government].

**Supersession  
of Board.**

**22.** (1) If at any time it appears to the <sup>1</sup>[Provincial Government] that a Board is not competent to perform or persistently makes default in the performance of, the duties imposed upon it by or under this or any other Act, or exceeds or abuses its powers, the <sup>1</sup>[Provincial Government] may, by an order in writing, specifying the reasons for so doing, remove all appointed and elected members of such Board and direct that the vacancies shall thereupon be filled by election in respect of elected members and by appointment in respect of appointed members or that all the vacancies shall be filled by appointment.

(2) From the date of an order under sub-section (1) until the vacancies are filled—

- (a) all powers and duties of the Board shall be exercised and performed by, and
- (b) all property vested in the Board shall vest in, such person, in such manner, as the <sup>1</sup>[Provincial Government] may direct.

**Duties of  
Boards.**

**23.** (1) It shall be the duty of every Board—

- (a) to prepare and maintain a register showing all primary schools within the district, together with the teachers thereof and their qualifications and the accommodation available therein;
- (b) to tabulate such further information and to prepare such plans or maps as may be necessary to enable the Board to frame an estimate of the existing provision for primary education and of the further provision necessary to place primary education within the reach of all children;

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<sup>1</sup>See foot-note 3 on p. 627, *ante*.

of 1930.]

*(Chapter III.—The District School Board.—  
Sec. 23.)*

- (c) to prepare in the prescribed manner schemes for the extension of primary education within the area under the authority of each Union Board, Union Committee or Panchayat;
- (d) to arrange, in the prescribed manner, for the opening of additional primary schools and the expansion of existing primary schools with a view to giving effect as funds permit to such schemes;
- (e) to maintain all primary schools under public management in the district, except primary schools maintained by Union Boards under the control of the Board;
- (f) to construct, repair and manage, either directly or through its powers of delegation to Union Boards, Union Committees and Panchayats, all primary schools under public management in the district;
- (g) subject to the prescribed conditions, to appoint and fix and pay the salaries of teachers in primary schools;
- (h) to grant recognition to schools in accordance with the provisions of section 54 or to withdraw recognition therefrom;
- (i) to make grants in the prescribed manner for scholarships and stipends for primary schools;
- (j) to consider and pass orders on all applications under section 55 for grants to primary schools under private management;
- (k) to make grants to primary schools under private management;
- (l) to prepare and transmit to the Director of Public Instruction proposals for increasing the supply of trained and certificated teachers;
- (m) to advise upon all matters relating to primary education referred to the Board by the Director of Public Instruction;
- (n) subject to the prescribed conditions,—
  - (i) to grant pensions and gratuities to,
  - (ii) to form and manage a provident or annuity fund for,

[*Ben. Act VII*]

*(Chapter III.—The District School Board.—  
Secs. 24-27.)*

(iii) to compel contributions to such fund from,  
and

(iv) to supplement the contributions to such fund  
of,

the establishment of the Board and teachers in  
primary schools.

(2) The register referred to in clause (a) of sub-  
section (1) shall be maintained and the information  
referred to in clause (b) thereof shall be tabulated sepa-  
rately for each area under the authority of a Union  
Board, Union Committee or Panchayat.

Reports to be  
made by  
Board.

**24.** Every Board shall in each financial year—

(i) frame and transmit to the Director of Public  
Instruction, by such date and in such form  
as he may direct, a statement showing for  
its district—

(a) the names of primary schools under private  
management for which grants have been  
sanctioned for that year; and

(b) the amount of the grant which has been  
sanctioned for each such school;

(ii) furnish a report to the Director of Public  
Instruction by such date and in such form  
as he may direct, exhibiting the grants which  
it has distributed to schools within the dis-  
trict.

Board to furnish  
other prescribed  
reports.

**25.** Every Board shall prepare and transmit to the  
Director of Public Instruction such further reports and  
statements as may be prescribed.

Power of Board  
to appoint,  
punish and  
dismiss its  
officers and  
servants.

**26.** (1) Subject to the prescribed conditions, a  
Board may appoint such staff of officers and servants  
other than inspectors as it may consider necessary to  
carry out its duties under this Act, and may fix and  
pay salaries to such staff.

(2) Subject to the prescribed conditions, a Board  
may punish or dismiss members of its staff.

Compulsory  
acquisition of  
land for the  
purposes of  
this Act.

**27.** The <sup>1</sup>[Provincial Government] may, at the  
request of the President of the Board, acquire, under  
the provisions of the Land Acquisition Act, 1894, any  
land required for the purposes of this Act.

1 of 1894.

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<sup>1</sup>See foot-note 3 on p. 627, ante.

of 1930.]

*(Chapter III.—The District School Board.—Chapter IV.—Cess and Tax for Primary Education.—Secs. 28-30.)*

“Land” in this section has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894.

28. All buildings or other property, movable or immovable in a district vested in or held by or under the control of a District Board at the date of the commencement of this Act for the purposes of primary education shall for the purposes of this Act, vest in or be held by or be under the control of the District School Board in that district:

Existing buildings, etc., for primary education to vest in District School Boards.

Provided that in the event of a dispute arising whether any building or other property is so vested in or held by or under the control of a District Board at the date of the commencement of this Act, the question shall be referred to the [Provincial Government] whose decision thereon shall be final.

## CHAPTER IV.

### Cess and Tax for Primary Education.

29. (1) In any district or part of a district in which the provisions of this chapter are in force, all immovable property on which the road and public works cesses are assessed according to the provisions of the Cess Act, 1880, shall be liable to the payment of a primary education cess.

Levy of primary education cess.

Ben. Act.  
IX of 1880

(2) The primary education cess shall be levied at the rate of three and a half pice on each rupee of annual net profits from mines and quarries and at the rate of five pice on each rupee of annual value of land and of annual net profits from tramways, railways and other immovable property as determined under the Cess Act, 1880.

30. (1) Except as otherwise provided in this Act the primary education cess shall be paid to the same persons in the same manner and at the same time as the road cess and public works cess are paid under the Cess Act, 1880.

Payment of cess.

<sup>1</sup>See foot-note 3 on p. 627, ante.

[Ben. Act VII]

*(Chapter IV.—Cess and Tax for Primary Education.—  
Secs. 31-33.)*

(2) Every holder of an estate shall yearly pay to the Collector the entire amount of the primary education cess calculated on the annual value of the lands comprised in such estate at the rate provided in sub-section (2) of section 29 less a deduction to be calculated at one and a half pice for every rupee of the revenue entered in the valuation roll of such estate as payable in respect thereof.

(3) Every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the primary education cess calculated on the annual value of the land comprised in his tenure at the rate provided in sub-section (2) of section 29 less a deduction to be calculated at one and a half pice for every rupee of the rent payable by him for such tenure.

(4) Every cultivating raiyat shall pay to the person to whom his rent is payable seven-tenths of the paid primary education cess calculated at the rate provided in sub-section (2) of section 29 upon the rent payable by him or upon the annual value, as ascertained under the provisions of the Cess Act, 1880, of the land held by him.

Ben. Act  
IX of  
1880.

First  
imposition  
of primary  
education  
cess.

31. When the primary education cess is for the first time imposed in any district or part of a district the Collector of the district shall cause a notification to be published and a proclamation to be made in the manner provided by section 40 of the Cess Act, 1880, announcing such imposition, and shall cause to be served on the holder of every estate within the district or part of the district concerned, a notice showing the amount of primary education cess payable in respect of his estate, and specifying the date from which such primary education cess will take effect:

Provided that no defect in the service of such notice shall affect the liability of any person or property to the payment of the primary education cess.

Provisions of  
Cess Act, 1880,  
to apply to  
assessment, etc.,  
of education  
cess.

32. Subject to the provisions of this chapter, the provisions of the Cess Act, 1880, shall apply as far as possible to the assessment, levy, payment and recovery of the primary education cess.

Proceeds of cess  
to be paid into  
District Primary  
Education Fund.

33. The proceeds of the primary education cess in each district shall be paid by the Collector into the District Primary Education Fund of such district.

**The Bengal (Rural) Primary Education Act, 1930.** 641

of 1930.]

**(Chapter IV.—Cess and Tax for Primary Education.—**

**Chapter V.—Contribution from Provincial Revenues—Secs. 34-36.)**

Ben. Act  
VI of  
1870.  
Ben. Act  
V of 1919.

**34.** (1) The District Magistrate or one of his subordinate officers shall from time to time examine the assessment list prepared under section 16 of the Village Chaukidari Act, 1870, and shall consider the assessment made under section 38 of the Bengal Village Self-Government Act, 1919, and, after such inquiry as he considers necessary, shall prepare a list of all persons assessed to pay the chaukidari rate or the union rate, as the case may be, who, in his opinion, have been so assessed wholly or in part in respect of their trade, business or profession.

Tax on  
trade, business  
or profession.

(2) The District Magistrate shall assess a tax on each of such persons not exceeding one hundred rupees per annum.

(3) The amount of tax so assessed shall be communicated to the Union Board or Panchayat concerned, and the Union Board or Panchayat shall collect the tax as if it were the union rate or the chaukidari rate.

(4) Any arrears of the said tax may be recovered by any process enforceable for the recovery of an arrear of union rate or chaukidari rate.

(5) The Union Board or Panchayat shall remit the amount of tax realised under this section to the District Magistrate after deducting ten *per cent.* thereof to defray the cost of collection.

(6) The proceeds of the said tax in each district shall be paid by the District Magistrate into the District Primary Education Fund of such district.

**35.** For the purposes of this chapter, the expressions "annual value of land," "cultivating *raiyyat*," "estate," "holder of an estate or tenure," "land" and "tenure" have the same meaning as in section 4 of the Cess Act, 1880.

Definitions.

Ben. Act  
IX of  
1880.

**CHAPTER V.**

**Contribution from Provincial Revenues.**

**36.** In addition to the sums which may be appropriated from the provincial revenues in any year for the purposes of primary education, the <sup>1</sup>[Provincial Government] shall every year provide a sum of twenty-three lakhs and fifty thousand rupees for expenditure on primary education in rural areas.

Contribution  
from Provincial  
Revenues.

<sup>1</sup>See foot-note 3 on p. 627, *ante*.

[*Ben. Act VII*]

(*Chapter VI.—District Primary Education Fund.—  
Sec. 37.*)

## CHAPTER VI.

### District Primary Education Fund.

District  
Primary  
Education  
Fund.

37. (1) There shall be formed for each district in which the provisions of this chapter are in force, a fund to which shall be credited—

- (i) all sums granted by the <sup>1</sup>[Provincial Government] for the payment of grants to primary education;
- (ii) all sums granted by the <sup>1</sup>[Provincial Government] for the institution and maintenance of primary schools and for the payment of teachers in primary schools;
- (iii) all sums granted by the <sup>1</sup>[Provincial Government] for scholarships for children in primary schools;
- (iv) the proceeds of the primary education cess levied in the district;
- (v) the proceeds of the tax imposed under section 34;
- (vi) all income derived from any endowments or other property owned or managed by the Board for the purposes of this Act;
- (vii) the amount of all fines and penalties imposed under this Act <sup>2</sup>[other than fines and penalties levied by Magistrates];
- (viii) all sums received by the Board under section 49;
- (ix) all school fees, if any, collected in primary schools maintained by the Board; and
- (x) all other sums of money which may be received by the Board under or for the purposes of this Act;

(2) The District Primary Education Fund shall become vested in the Board, be under its control and shall be held by it in trust for the purposes of this Act.

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<sup>1</sup>See foot-note 3 on p. 627, ante.

<sup>2</sup>These words were inserted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1930.

(Chapter VI.—District Primary Education Fund.—  
Secs. 38, 39.)

**38.** Except as otherwise provided in this Act, the District Primary Education Fund shall be applicable to the following objects in the following order:—

Expenditure  
from District  
Primary  
Education  
Fund.

*Firstly*—the payment of any sums which the Board may be liable to pay as interest upon loans raised by it for the purposes of this Act and the formation of a sinking fund when required;

*Secondly*—the payment of the prescribed percentage of the cost of establishments entertained and expenses incurred by the Collector under section 91 of the Cess Act, 1880;

Ben. Act  
IX of 1880.

*Thirdly*—the indemnification of the Collector with the sanction of the Commissioner of the Division from any of the costs, charges and expenses incurred by him under Chapter IV;

*Fourthly*—the payment of the cost or the prescribed percentage of the cost of audit;

*Fifthly*—the payment of salaries of the establishment of the Board and of teachers in primary schools and, subject to the prescribed conditions, of pensions, gratuities and grants made for supplementing contributions to the provident fund of the establishment of the Board and of teachers in primary schools;

*Sixthly*—the payment of travelling allowance to members of the Board and its establishment as provided in section 13;

*Seventhly*—the payment of expenses incurred by the Board in the construction, equipment and maintenance of primary schools; and

*Eighthly*—generally, the carrying out of the purposes of this Act.

**39.** (1) All moneys payable to the credit of the District Primary Education Fund shall forthwith be paid into the prescribed bank or Government treasury.

Administration  
of District  
Primary  
Education  
Fund.

(2) All orders or cheques upon the said Fund shall be signed by the President or by such person as he may authorise in writing in this behalf.

(3) No money shall be spent from this Fund—

(a) except for the purposes of this Act, and



*(Chapter VI.—District Primary Education Fund.—  
Chapter VII.—Audit.—Secs. 40-44.)*

(b) unless its expenditure is provided for—

(i) in the budget of the Board as approved by the <sup>1</sup>[Provincial Government] under sub-section (2) of section 40, or

(ii) by reappropriation in the prescribed manner.

**Budget.**

**40.** (1) Every Board shall each year, prepare in the prescribed form a budget of income and expenditure of the Board for the ensuing financial year, and shall submit it to the <sup>1</sup>[Provincial Government] through the Director of Public Instruction on or before the thirtieth day of November.

(2) The <sup>1</sup>[Provincial Government] may either approve of the budget as it stands, or approve of it after making such alterations (if any) as it may think fit or may cause it to be returned to the Board for such modifications as the <sup>1</sup>[Provincial Government] may think necessary, and, when such modifications have been made, the budget shall be re-submitted for approval to the <sup>1</sup>[Provincial Government].

**CHAPTER VII.**

**Audit.**

**Keeping of  
accounts.**

**41.** Accounts of receipts and expenditure of every Board shall be kept in the prescribed manner and form up to the prescribed day in each year.

**Accounts to be  
audited  
annually.**

**42.** The accounts of every Board shall be audited and examined at least once in every year by such auditor as may be appointed by the <sup>1</sup>[Provincial Government].

**Accounts to be  
open to inspec-  
tion.**

**43.** A copy of the accounts of every Board, duly made up and balanced, shall be deposited in the office of the Board and be open at the prescribed hours to the inspection of all interested persons for fourteen clear days before the audit; and all such persons may take copies or extracts from the same without fee.

**Notice of audit  
to be given.**

**44.** (1) Before each audit the Board shall, after being informed by the auditor of the proposed date of audit, give at least fourteen days' notice of the time

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<sup>1</sup>See foot-note 3 on p. 627, ante.

(of 1930.)

*(Chapter VII.—Audit.—Secs. 45-48.)*

and place at which the audit will be made and of the deposit of its accounts as provided by section 43.

(2) Such notice shall be given by posting outside the office of the Board and in such other way as may be prescribed.

45. (1) For the purpose of any audit the auditor may by order in writing require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents and papers which he may deem necessary and may require any person accountable for or having the custody or control of the same to appear before him at such audit and to make and sign a declaration as to their correctness or to answer any question or prepare and submit any statement relative thereto.

Documents to be produced before auditor.

(2) It shall be the duty of the Board to comply with any requisition made by the auditor and to give all reasonable facilities to the auditor to inspect and audit the accounts of the Board.

46. Any person interested in the District Primary Education Fund may make an objection in writing to the accounts before the auditor.

Power of persons interested to make objection at audit.

47. (1) The auditor shall disallow any item of expenditure which is contrary to law and shall give a written certificate that the sum so disallowed is due from the person making or authorising the illegal payment.

Powers of auditor to certify sums due.

(2) If any person entrusted with the duty of accounting for the Board fails to bring any sum into account which ought to have been brought into account and by such default any deficiency or loss is caused to the Board the auditor shall give a written certificate that the amount of such deficiency or loss is due from the person so defaulting.

48. (1) (a) Any person who has made an objection under section 46, if such objection has been over-ruled by the auditor, and

Appeal from orders of auditor.

(b) any person from whom any sum has been certified by the auditor to be due under section 47

may appeal to the Commissioner of the Division against the decision of the auditor within thirty days, and the Commissioner may in appeal give any decision which might have been given by the auditor, and such decision shall be final.

**446 The Bengal (Rural) Primary Education Act, 1930.**

[Ben. Act VII]

**(Chapter VII.—Audit.—Chapter VIII.—Powers and duties of Union Boards, Union Committees and Panchayats.—Secs. 49-51.)**

(2) The Commissioner may, in his discretion, order that sums certified to be due under section 47 or sub-section (1) of this section shall not be realised under section 49, and such order shall be final.

Recovery of sums certified due.

**49.** (1) Every sum certified to be due from any person by an auditor under section 47 or by the Commissioner of the Division under section 48 shall be paid by such person to the District Primary Education Fund, within fourteen days after the making of the certificate unless, in the case of a certificate by an auditor, and appeal under section 48 is pending.

(2) If payment is not made in accordance with the provisions of sub-section (1)—

(a) in the case of default by a <sup>1</sup>[servant of the Crown] or member of the establishment of the Board the sum payable shall be recovered, subject to the prescribed conditions, by reduction from his salary bill, and

(b) in the case of default by any other person the auditor shall forward to the Collector a certificate under his signature specifying the sum payable, and the Collector, on receipt of such certificate, shall proceed to recover the sum as if it were a public demand under the Public Demands Recovery Act, 1913.

Ben. Act  
III of 1913.

Report of auditor to whom to be submitted.

**50.** Within fourteen days after the completion of the audit the auditor shall report on the accounts audited and examined and shall forward such report to the <sup>2</sup>[Provincial Government] through the Director of Public Instruction and shall forward a copy of such report to the President of the Board concerned, who shall lay it before the Board.

**CHAPTER VIII.**

**Powers and duties of Union Boards, Union Committees and Panchayats.**

Delegation of Board's powers to Union Boards, Union Committees and Panchayats.

**51.** Subject to the prescribed conditions, the Board may and shall, if so required by an order of the <sup>1</sup>[Provincial Government], delegate all or any of its powers

<sup>1</sup>These words were substituted for the words "Government servant" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>2</sup>See foot-note 3 on p. 627, ante.

of 1930.]

*(Chapter VIII.—Powers and duties of Union Boards,  
Union Committees and Panchayats.—Chapter IX—  
Recognition of and grants to Primary Schools.—  
(Secs. 52-54.)*

Ben. Act  
V of 1919.

of construction, repair, supervision and management of primary schools to Union Boards in areas in which the Bengal Village Self-Government Act, 1919, is in force, and elsewhere to Union Committees or Panchayats, and thereupon such Union Boards, Union Committees, or Panchayats, shall, subject to its control, exercise such powers within the area under their authority.

Ben. Act  
III of  
1885.  
Ben. Act  
VI of  
1870.

52. For the purposes of this Act every Union Committee constituted under the Bengal Local Self-Government Act of 1885, and every Panchayat appointed under the Village Chaukidari Act, 1870, shall be a body corporate by the name of "the Union Committee of (name of Union)" or, "the Panchayat of (name of village)" as the case may be, and shall have perpetual succession and a common seal, and shall by the said name sue and be sued, with power to acquire and hold property, both movable and immovable, and subject to the prescribed conditions, to transfer any property held by it and to contract and to do all other things necessary for the purposes of this Act.

Union Committees and Panchayats to be bodies corporate for purposes of Act.

53. Notwithstanding anything contained in section 18 of the Bengal Village Self-Government Act, 1919, the power of every Union Board to transfer property or to contract shall, for the purposes of this Act, be subject to the prescribed conditions.

Power of Union Board to transfer property and contract.

## CHAPTER IX.

### Recognition of and grants to Primary Schools.

54. (1) If the managing authority of any school desires that such school shall be recognised as a primary school under this Act, it shall submit an application in the prescribed form to the Board.

Recognition.

(2) The Board may, subject to the prescribed conditions, by an order in writing, grant such application, conditionally or unconditionally, or refuse or defer the grant of recognition and may also similarly withdraw recognition so granted.

(3) An appeal shall lie in respect of any order passed under sub-section (2) to the Director of Public Instruction or to any officer subordinate to him, being above

[Ben. Act VII]

*(Chapter IX.—Recognition of and grants to Primary Schools.*

*Chapter X.—Compulsory Education.—Secs. 55-58.)*

the rank of District Inspector of Schools, to whom he may delegate his powers in this behalf in writing.

(4) The Board may subject to the prescribed conditions, recognise any school in the district as a primary school although no application for recognition has been made by the managing authority of such school under sub-section (1).

**Grants.**

55. (1) If the managing authority of any primary school under private management desires that such school shall be granted aid, it shall submit an application in the prescribed form to the Board.

(2) The Board may, subject to the prescribed conditions, by an order in writing, grant such application, conditionally or unconditionally, or refuse or defer the grant of aid.

(3) An appeal shall lie in respect of any order passed under sub-section (2) to the Director of Public Instruction or to any officer subordinate to him, being above the rank of District Inspector of Schools, to whom he may delegate his powers in this behalf in writing.

## CHAPTER X.

### Compulsory Education.

**Notification by  
Provincial  
Government.**

56. If the <sup>1</sup>[Provincial Government], after consulting the Board concerned, is satisfied that there is adequate provision for primary education in any area for which a Union Board, Union Committee or Panchayat, has been constituted, it may, by notification, declare that primary education shall be compulsory within such area.

**No fees to be  
charged.**

57. No fee shall be charged by any primary school under public management in any area in which primary education has been declared compulsory under section 56 and also from the time the provisions of this Act have been extended and cess imposed in any area, even before primary education be declared compulsory.

**Exemptions.**

58. At the instance of the Board the <sup>1</sup>[Provincial Government] may, by notification, exempt from the operation of section 59, section 62 and section 63 any

<sup>1</sup>See footnote 3 on p. 627, ante.

**of 1930.]**

**(Chapter X.—Compulsory Education.—Secs. 59-62.)**

person or class of persons in any area in which primary education has been declared compulsory under section 56.

**59.** In any area in which primary education has been declared compulsory under section 56 the guardian of every child resident in such area shall, subject to the exceptions specified in section 60, cause such child to attend a primary school.

**Responsibility  
of guardians.**

**60.** Attendance at a primary school shall not be compulsory on a child if—

**Conditions  
exempting from  
attendance.**

- (1) there is no primary school within two miles or such less distance as may be specified by general or special order of the Board in this behalf from the residence of the child;
- (2) the child is under eight years of age and there is no primary school within one mile from the residence of the child;
- (3) the child is prevented from attending the school by sickness, infirmity or other cause declared by a resolution of the Union Board, Union Committee or Panchayat concerned to be a reasonable excuse for non-attendance;
- (4) the child is receiving instruction in some other manner approved by the prescribed officer;
- (5) the child has already received instruction in a primary school or otherwise to the satisfaction of the Board; or
- (6) the Board has declared that, owing to agricultural operations, children residing in the area under the authority of any Union Board, Union Committee or Panchayat within the jurisdiction of the Board shall be exempt from attendance at a primary school for a period to be specified in the declaration.

**61.** The Union Board, Union Committee or Panchayat concerned shall be responsible for the enforcement of the provisions of section 59, section 62 and section 63 and, subject to the prescribed conditions, shall appoint one or more Attendance Committees for this purpose.

**Attendance  
Committees.**

**62.** (1) If an Attendance Committee is satisfied that a guardian has, without reasonable excuse and after receiving a written caution from the Attendance

**Default by  
guardian.**

[Ben. Act VII]

(Chapter X.—Compulsory Education.—Chapter XI.—  
Religious Instruction.—Chapter XII.—Indemnity.  
—Secs. 63-65.)

Committee, failed to comply with the provisions of section 59, it shall send a written complaint against the guardian to a Magistrate having jurisdiction.

(2) The Magistrate, if satisfied that the complaint is well-founded, shall direct the guardian to cause the child in respect of whom the complaint was preferred to attend a primary school regularly from a date to be specified in such direction.

Penalty for  
default.

63. (1) If an Attendance Committee is satisfied that a guardian has without reasonable excuse failed to comply with a direction issued to him under sub-section (2) of section 62, it shall sanction his prosecution, and on conviction by a Magistrate such guardian shall be liable to a fine which may extend to five rupees.

(2) Any person who has on two or more previous occasions been convicted of an offence under this section shall, on further conviction for such offence, be liable to a fine which may extend to fifty rupees.

## CHAPTER XI.

### Religious Instruction.

Religious  
instruction.

64. Subject to the prescribed conditions, provision shall, so far as possible, be made in every primary school for the religious instruction at least once in every week during school hours of every child attending the school in the religion of the guardian of such child:

Provided that, at the request in writing of the guardian of any child, such child shall be exempted from such religious instruction.

## CHAPTER XII.

### Indemnity.

Indemnity.

65. No suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything which is in good faith, done or intended to be done under this Act.

of 1930.]

*(Chapter XIII.—Rules.—Sec. 66.)*

**Page 651—**

In sub-section (2) of section 66—

- (1) in clause (g), omit the words “and the Board”;
- (2) in clause (h) omit the words “the appointment of a President of the Committee and”; and
- (3) for clause (i) substitute the following clause, namely:—

“(i) the manner of election of members and the Secretary of the Committee under section 4, the manner of election of members of the Board under clauses (f), (g) and (i) of section 6 and the qualifications of the teachers of primary schools who shall be entitled to vote at an election under clause (i) of section 6”.

(Omitted and substituted by Bengal Act IV of 1943, section 8.)

[No. 31, dated the 22nd May 1943.]

- (c) the subjects and standards referred to in clause (14) of section 2, and the circumstances in which such subjects may vary in different schools;
- (d) the resignation of members, the circumstances in which and the authority by which any member of the Committee may be removed;
- (e) the filling of any vacancy in the Committee whether temporary or otherwise;
- (f) the regulation of travelling allowances of members of the Committee and of their remuneration, if any;
- (g) the appointment of the staff of officers and servants of the Committee and the Board and the pay and allowances of such staff;
- (h) the appointment of a President of the Committee and the method of conducting the business of the Committee;
- (i) the manner of election of members of the Committee under section 4 and the manner of election of members of the Board under clauses (f), (g) and (i) of section 6;
- (j) the manner of election of the President of the Board under sub-section (1) of section 8;
- (k) the amount and manner of payment of travelling allowances under section 13;
- (l) the conditions subject to which the Board under section 14, the Union Committee and the

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<sup>1</sup>See foot-note 3 on p. 627, ante.



## (Chapter XIII.—Rules.—Sec. 66.)

Panchayat under section 52 and the Union Board under section 53 may transfer property held by them and may contract;

- (m) the number of meetings to be held by the Committee and the Board, the number of members who constitute a quorum thereat, the keeping of minutes of the proceedings thereof, the submission of copies of such proceedings of the Committee to the <sup>1</sup>[Provincial Government] and of the Board to the Commissioner of the Division, and the preparation and custody of registers and records by such Committee or Board;
- (n) the manner of preparing schemes under clause (c) of sub-section (1) of section 23;
- (o) the manner of opening additional primary schools and of the expansion of existing primary schools referred to in clause (d) of sub-section (1) of section 23;
- (p) the conditions referred to in clause (g) of sub-section (1) of section 23;
- (q) the manner of making grants under clause (i) of sub-section (1) of section 23;
- (r) the conditions relating to pensions, gratuities and provident or annuity funds referred to in clause (n) of sub-section (1) of section 23 and in clause *Fifthly* of section 38;

## Page 652—

In sub-section (2) of section 66, in clause (t) after the words and figure “under section 26” insert the words “and the salaries of such staff”.

(Inserted by Bengal Act IV of 1943, section 8.)

[No. 31, dated the 22nd May 1943.]

- (u) the percentage of cost of ~~administration~~ referred to in clause *Secondly* of section 38;
- (v) the percentage of cost of audit referred to in clause *Fourthly* of section 38;
- (w) the bank or Government treasury referred to in sub-section (1) of section 39;
- (x) the manner of reappropriation referred to in sub-clause (ii) of clause (b) of sub-section (3) of section 39;
- (y) the form of budget prepared by the Board under section 40;

<sup>1</sup>See foot-note 3 on p. 627, ante.

*The Bengal (Rural) Primary Education  
Act, 1930.*

453

of 1930.]

*(Chapter XIV.—Repeals and Amendments.—Sec. 67.)*

- (z) the manner and form of accounting and the day up to which accounts shall be kept under section 41;
- (z1) the hours for inspection of accounts referred to in section 43;
- (z2) the procedure of auditors and all matters incidental and ancillary to the audit of accounts;
- (z3) the manner of giving notice under sub-section (2) of section 44;
- (z4) the conditions of recovery of sums under clause (a) of sub-section (2) of section 49;
- (z5) the conditions of the delegation of powers by the Board to Union Boards, Union Committees and Panchayats under section 51;
- (z6) the form of application for, and the conditions of grant of, and withdrawal of, recognition under section 54;
- (z7) the form of application for, and the conditions of grant of, aid under section 55;
- (z8) the officer referred to in clause (4) of section 60;
- (z9) the conditions of appointment of an Attendance Committee under section 61; and
- (z10) the conditions of provision for religious instruction under section 64.

**CHAPTER XIV.**

**Repeals and Amendments.**

**67.** The enactments specified in the schedule shall be repealed or amended to the extent and in the manner mentioned in the fourth column thereof.

Repeals and  
amendments of  
certain  
enactments.

654      *The Bengal (Rural) Primary Education  
Act, 1930.*

[Ben. Act VII of 1930.]

*(The Schedule.—Enactments repealed or amended.)*

**THE SCHEDULE.**

**Enactments repealed or amended.**

[Not printed here. The repeals and amendments  
have been shown in their parent Acts.]

## **PART II.**

**Act made by the Governor of Bengal under the provisions of section 72E of the Government of India Act.**



(a) In sub-section (2) of section 2 for the words and figures "the Government of India Act, 1935" substitute the words "the Constitution", and

(b) In sub-section (3) of section 2 for the words and figures "section 220 of the Government of India Act, 1935" substitute the words and figures "clause (2) of article 217 of the Constitution".

(Substituted by Adaptation Order, 1951, paragraph 3 and the Eleventh Schedule.)

[No. 47, dated the 1st February, 1952.]

5 & 6 Geo.  
V, c. 61; 6  
& 7 Geo.  
V, c. 37; 9  
& 10 Geo.  
V, c. 101.

General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Criminal Law Amendment Act, 1925.

Short title,  
commencement  
and extent.

(2) It shall come into force on such date<sup>2</sup> as the<sup>3</sup>[appropriate Government] may, by notification in the<sup>4</sup>[*Official Gazette*], direct:

(3) It extends to the whole of Bengal;\*

5\* \* \* \*

2. In this Act, unless there is anything repugnant in the subject or context, "the Code" means the Code of Criminal Procedure, 1898.

Definition.

Act V  
of 1898.

(2) In this Act "the appropriate Government" means the Central Government in relation to any of the matters enumerated in List I in the Seventh Schedule to the Government of India Act, 1935, and the Provincial Government in relation to other matters.

26 Geo. V,  
c. 2.

3. (1) The<sup>3</sup>[appropriate Government] may, by order in writing, direct that any person accused of any offence specified in the First Schedule shall be tried by Commissioners appointed under this Act.

Power of appropriate Government to direct trial by Commissioners in certain cases.

<sup>1</sup>No number was given to this Act. It was made by the Governor of Bengal under section 72E of the Government of India Act.

<sup>2</sup>This Act was brought into force on the 24th April, 1925 (*vide* notification No. 1593X., dated the 4th April, 1925, published in the *Calcutta Gazette* of the 9th April, 1925, Part I, page 551.)

<sup>3</sup>These words were substituted for the words "Local Government" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>4</sup>These words were substituted for the words "*Calcutta Gazette*" by paragraph 4 (1), *ibid*.

<sup>5</sup>The word "and" and sub-section (4), were omitted by s. 9 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>6</sup>Sub-section (2) was inserted by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Secs. 4, 5.)

(2) No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court, but save as aforesaid an order under that sub-section may be made in respect of, or may include, any person accused of any offence specified in the First Schedule whether such offence was committed before or after the commencement of this Act.

Appointment  
and qualifica-  
tion of Commis-  
sioners.

4. (1) Commissioners for the trial of persons under this Act shall be appointed by the <sup>1</sup>[appropriate Government].

(2) Such Commissioners may be appointed for the whole of Bengal or for any part thereof, or for the trial of any particular accused person or persons.

(3) All trials under this Act shall be held by three Commissioners, of whom at least two shall be persons who at the time of appointment under this section are serving as, and have for at least three years served as or exercised the powers of, Sessions Judges or Additional Sessions Judges, or are persons qualified under <sup>2</sup>[section 220 of the Government of India Act, 1935,], for appointment as Judges of a High Court.

26 Geo. V  
c. 2.

<sup>3</sup>(4) At any time before the commencement of the trial of any person under this Act, the <sup>1</sup>[appropriate Government] may, by an order in writing stating the reasons therefor, withdraw the case of such person from the Commissioners appointed for the trial and transfer it for trial to three other Commissioners appointed in this behalf.

Procedure of  
Commissioners.

5. (1) Commissioners appointed under this Act may take cognisance of offences without the accused being committed to them for trial, and in trying accused persons, shall <sup>4</sup>["subject to the provisions of section 9A] record evidence in the manner prescribed in section 356 of the Code and shall, in other respects also, subject to this Act and to any rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

(2) In the event of any difference of opinion among the Commissioners, the opinion of the majority shall prevail.

<sup>1</sup>See foot-note 3 on p. 657, *ante*.

<sup>2</sup>These words and figures were substituted for the words and figures "sub-section (3) of section 101 of the Government of India Act" by Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>3</sup>Sub-section (4) was added by s. 2 of the Bengal Criminal Law Second Amendment Act, 1932 (Ben. Act XI of 1932).

<sup>4</sup>These words were inserted by s. 10 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

(Secs. 6-7A.)

6. (1) The Commissioners may pass upon any person convicted by them any sentence authorised by law for the punishment of the offence of which such person is convicted:

Powers of Commissioners.

Act XLV  
of 1860.  
Ben. Act  
XI of 1932.

<sup>1</sup>Provided that where the Commissioners convict any person of any offence punishable under the first paragraph of section 307 of the Indian Penal Code, committed after the commencement<sup>2</sup> of the Bengal Criminal Law Second Amendment Act, 1932, they may pass on such person a sentence of death or of transportation for life.

(2) If in any trial under this Act it is found that the accused person has committed any offence, whether such offence is or is not an offence specified in the First Schedule, the Commissioners may convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

7. The provisions of the Code, so far only as they are not inconsistent with the provisions of, or the special procedure prescribed by or under, this Act shall apply to the proceedings of Commissioners appointed under this Act, and such Commissioners shall have all the powers conferred by the Code on a Court of Sessions exercising original jurisdiction.

Application of Code of Criminal Procedure to proceedings of Commissioners.

<sup>3</sup>7A. Notwithstanding anything contained in this Act or in any other Act—

Procedure for trial of co-accused who surrenders or is arrested after commencement of trial or conclusion of previous trial.

(1) (a) if after the commencement of a trial by Commissioners under this Act any person surrenders or is arrested who, in the opinion of the '[appropriate Government]' might, if he had surrendered or been arrested before the commencement of the trial, have been tried jointly with the persons under trial the '[appropriate Government]' may direct that he shall be placed on his trial jointly with such other persons at the said trial:

Provided that the name of such person was included with the names of the persons under trial in the order under sub-section (1) of section 3 directing their trial or in the report under clause (a) of sub-section (1) of section 173 of the Code;

<sup>1</sup>This proviso was added by s. 3 of the Bengal Criminal Law Second Amendment Act, 1932 (Ben. Act XI of 1932).

<sup>2</sup>Ben. Act XI of 1932 came into force on the 20th October 1932.

<sup>3</sup>Section 7A was inserted by s. 11 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

<sup>4</sup>See foot-note 3 on p. 657, *ante*.



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Act, 1925.*

(Sec. 7A.)

- (b) when any person in respect of whom a direction has been made under sub-clause (a) is produced before the Commissioners, any evidence already recorded in the trial may be admitted as evidence against him or in his favour;
- (2) in a trial by Commissioners under this Act of any person who has surrendered or been arrested after the conclusion of a previous trial under this Act at which, in the opinion of the Commissioners, he might, if he had surrendered or been arrested before the commencement of such previous trial, have been tried jointly with the persons then tried any evidence recorded in such previous trial may be admitted as evidence against him or in his favour:

Provided that the name of such person was included with the names of the persons previously tried in the order under sub-section (1) of section 3 directing their trial or in the report under clause (a) of sub-section (1) of section 173 of the Code;

- (3) where any evidence recorded in the absence of the accused person is admitted under sub-clause (b) of clause (1) or clause (2) the Commissioners may on their own motion recall any witness who has given such evidence in order that he may be further examined or cross-examined and shall, at the instance of the accused person or his pleader, recall any such witness for such purpose, unless, in the opinion of the Commissioners, for reasons to be recorded in writing, it is not necessary in the interest of justice that the witness should be recalled;

- (4) the provisions of this section shall apply—

- (i) to the trial of persons who surrendered or were arrested before the date of the commencement<sup>1</sup> of the Bengal Criminal Law Amendment Act, 1934, in respect of any offence for which they have not at such date been placed on trial, as well as to the trial of persons who surrender or are arrested after that date;

Ben. Act  
VII of  
1934.

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<sup>1</sup>Ben. Act VII of 1934 came into force on the 20th March, 1934.

**The Bengal Criminal Law Amendment  
Act, 1925.**

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(Secs. 8-8B.)

(4) to the admission of any evidence recorded, whether such evidence was recorded before or after the said date in a trial under this Act.

8. (1) Commissioners trying an offence under this Act may, with a view to obtaining the evidence of any person supposed to have been directly concerned in, or privy to, the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof.

Tender of  
pardon.

(2) Where, in the case of any offence for the trial of which by Commissioners an order has been made under sub-section (1) of section 3, a pardon has, before the passing of such order, been tendered to and accepted by any person under section 337 of the Code, the provisions of sub-sections (2) and (3) of that section of the Code shall apply as if the accused person had been committed for trial to the Commissioners.

(3) For the purposes of sections 339 and 339A of the Code pardons tendered under sub-section (1) and sub-section (2) shall be deemed respectively to have been tendered under sections 338 and 337 of the Code.

8A. (1) In any trial by Commissioners appointed under this Act, the Commissioners may, if they think fit, order at any stage of the trial that the public generally or any particular person shall not have access to, or be or remain in, the room or building used for the trial.

Power to ex-  
clude persons or  
public from  
place of trial.

(2) Where in the course of any such trial, the Advocate General certifies in writing to the Commissioners that it is expedient in the interests of the public peace or safety, or of the peace or safety of any of the witnesses in the trial that the public generally should not have access to, or be or remain in, the room or building used for the trial, the Commissioners shall order accordingly.

8B. (1) Where any accused, in a trial by Commissioners appointed under this Act, has by his voluntary act rendered himself incapable of appearing before the Commissioners or resists his production before

Power to deal  
with refractory  
accused.

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<sup>1</sup>Sections 8A and 8B were inserted by s. 4 of the Bengal Criminal Law Second Amendment Act, 1932 (Ben. Act XI of 1932).

(Secs. 9, 9A.)

them or behaves before them in a persistently disorderly manner, the Commissioners may, at any stage of the trial, by order in writing made after such inquiry as they may think fit, dispense with the attendance of such accused for such period as they may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing or appears before the Commissioners and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no finding, sentence or order passed in a trial by Commissioners appointed under this Act shall be held to be illegal by any Court by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1). Act V of 1898.

**Special rule of evidence.**

9. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before Commissioners appointed under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the Commissioners are of opinion that such death, disappearance, or incapacity has been caused in the interests of the accused. I of 1872.

**Special provisions for recording evidence.**

9A. (1) In any trial by Commissioners appointed under this Act, a Commissioner may dictate the evidence of any witness in narrative form to a stenographer or typist, who shall take down the same:

Provided that the Commissioners may cause any particular question or answer to be so taken down.

(2) The evidence taken down under sub-section (1), or a transcript or copy thereof, shall be signed by the Commissioners after they have corrected any clerical errors therein, and on such signature shall form part of the record.

<sup>1</sup>Section 9A was inserted by s. 12 of the Bengal Criminal Law Amendment Act, 1934 (Ben. Act VII of 1934).

**The Bengal Criminal Law Amendment  
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(Secs. 10-25.)

(3) Notwithstanding anything contained in section 356 of the Code, where evidence is recorded in the manner provided in sub-sections (1) and (2) it shall not be necessary for the Commissioners to record any memorandum of such evidence.

10. The <sup>1</sup>[appropriate Government] may, by notification in the <sup>2</sup>[*Official Gazette*], make rules consistent with this Act to provide for all or any of the following matters, namely:—

Rule-making  
powers of  
appropriate  
Government.

- (i) the times and places at which Commissioners appointed under this Act may sit;
- (ii) the procedure of such Commissioners, including the appointment and powers of their President, and the procedure to be adopted in the event of any Commissioner being prevented from attending throughout the trial of any accused person;
- (iii) the conduct of and the procedure at trials, the manner in which prosecutions before such Commissioners shall be conducted and the appointment and powers of persons conducting such prosecutions;
- (iv) the execution of sentences passed by such Commissioners;
- (v) the temporary custody or release on bail of persons referred to or included in any order made under sub-section (1) of section 3, and the transmission of records to the Commissioners; and
- (vi) any matter which appears to the <sup>1</sup>[appropriate Government] to be necessary for carrying into effect the provisions of this Act relating to ancillary to trials before Commissioners.

11 to 22. Rep. by s. 3 of the Bengal Criminal Law Amendment (Part Continuance) Act, 1930 (Ben. Act III of 1930).

23. All rules made under this Act shall be published in the <sup>2</sup>[*Official Gazette*], and on such publication shall have effect as if enacted in this Act.

Publication  
of rules.

24, 25. Rep. by s. 3 of the Bengal Criminal Law Amendment (Part Continuance) Act, 1930 (Ben. Act III of 1930).

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<sup>1</sup>See foot-note 3 on p. 657, ante.

<sup>2</sup>See foot-note 4 on p. 657, ante.

*(The First and Second Schedules.)*

THE FIRST SCHEDULE.

*(See sections 3 and 6.)*

<sup>1</sup>[(1)] Any of the following offences, if in the opinion of the <sup>2</sup>[appropriate Government] there are reasonable grounds for believing that such offence has been committed by a member or a person controlled or instigated by a member, of any association of which the objects or methods include the commission of any of such offences, namely:—

(a) any offence punishable under any of the following sections of the Indian Penal Code, namely, sections <sup>3</sup>[121, 121A, 122, 123, 148, 216], 302, 304, 326, 327, 329, 332, 333, 385, 386, 387, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 454, 455, 457, 458, 459, 460 and 506;

Act XLV  
of 1860.

(b) any offence under the Explosive Substances Act, 1908; VI of 1908.

(c) any offence under the Indian Arms Act, 1878; XI of 1878.

(d) any attempt or conspiracy to commit, or any abetment of any of the above offences.

<sup>1</sup>(2) Any offence under the Indian Arms Act, 1878, or any attempt or conspiracy to commit, or any abetment of, such offence, if, in the opinion of the <sup>2</sup>[appropriate Government], there are reasonable grounds for believing that such offence, or such attempt, conspiracy or abetment, has been committed for the purpose of making, or assisting any person to make, unlawful gain by trafficking in arms or ammunition without a license under the said Act.

*The Second Schedule.*

*Rep. by s. 3 of the Bengal Criminal Law Amendment (Part Continuance) Act, 1930 (Ben. Act III of 1930).*

<sup>1</sup>The First Schedule was numbered as paragraph (1) of the First Schedule and to this Schedule as so-numbered, paragraph <sup>2</sup>(2) was added by s. 6 of the Bengal Criminal Law (Arms and Explosives) Act, 1932 (Ben. Act XXI of 1932).

<sup>3</sup>See foot-note 3 on p. 657, ante.

<sup>4</sup>These figures were substituted for the figure "148" by s. 5 of the Bengal Criminal Law Second Amendment Act, 1932 (Ben. Act XI of 1932).





